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VALERIE A. O'HARA
OFFICIAL COURT REPORTER

1 A P P E A R A N C E S:

2 ROSEMARY CURRAN SCAPICCHIO, ATTORNEY, Four Longfellow
3 Place, Boston, Massachusetts 02114, for the Plaintiffs;

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7 Roache & Malone, LLP, by JOHN P. ROACHE, ESQ., 66 Long
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9 Bletzer and Bletzer, P.C., by HUGH R. CURRAN, ESQ.,
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11 Defendants.

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14 Defendants.
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INDEX

EXAMINATION**Witness Name****Direct Cross Re-Direct****Re-Cross**

RICKY LEE EVANS

By Ms. Scapicchio

4

By By Ms. Harris

13

By Mr. Roache

97

EXHIBITS**Exhibit
Evidence****Description****Identification**

No. 10

Sanitized version of
2006 document

16

Nos. 3, 4
and 5Docket sheets from
Roxbury District Court

28

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PROCEEDINGS

THE CLERK: All rise for the jury.

THE COURT: You can all be seated. Good morning, everybody. Has anyone read, seen or heard anything about this case between the time we last saw you and now? There are no affirmative responses. I also neglected to mention something about the ceremony of the courtroom. If you notice, we all stand for you when you come into the courtroom, not for me, but for you, and that's because you are the judges of the facts and because of your singularly important role in this case.

So with that, proceed, Ms. Scapicchio.

MS. SCAPICCHIO: Thank you, your Honor.

RICKY LEE EVANS, RESUMED

DIRECT EXAMINATION, CONTINUED

BY MS. SCAPICCHIO:

Q. Good morning, Mr. Evans. In a loud clear voice, could you please state your name again for the record.

A. Ricky Evans.

Q. How do you spell your last name, Mr. Evans.

A. E-v-a-n-s.

Q. Okay. When we last spoke last Thursday, we were talking about your relationship with Detective Callahan, and I believe that you had indicated you believed Detective Callahan was a friend of yours; is that right?

1 A. Yes.

2 Q. And that was back in --

3 THE COURT: When was that?

4 MS. SCAPICCHIO: I'm sorry.

5 THE COURT: When was that?

6 Q. When did you believe Detective Callahan was a friend of
7 yours?

8 A. Back in 1988 and '89.

9 Q. '88 and '89?

10 A. Yes.

11 Q. Now, are you the same Ricky Evans who in July of 2006
12 pled guilty to carrying a dangerous weapon?

13 A. Yes.

14 Q. And, Mr. Evans, when we were talking last Thursday, you
15 told us that you testified at the criminal trial of
16 Commonwealth vs. Shawn Drumgold; is that right?

17 A. Yes.

18 Q. The testimony at the criminal trial of Shawn Drumgold,
19 do you remember specifically telling the criminal jury
20 that you saw Shawn Drumgold on the night of August 19th of
21 1988?

22 A. Yes.

23 Q. And did you in fact see Mr. Drumgold on August 19,
24 1988?

25 A. No, I didn't.

1 Q. And do you recall telling the criminal jury that when
2 you saw Mr. Drumgold he was with Lug; do you remember
3 telling the criminal jury that?

4 MS. HARRIS: Objection.

5 THE COURT: Overruled.

6 Q. And did you in fact see Shawn Drumgold with Lug on
7 August 19, 1988?

8 A. No, I didn't.

9 Q. And do you remember telling the jury back in 1989 that
10 when you saw Shawn Drumgold and Lug that Shawn had a silver
11 gun and Lug had a black gun? Do you remember telling the
12 criminal jury that back in 1989?

13 A. Yes.

14 Q. And did you in fact see Shawn with a silver gun and Lug
15 with a black gun back in 1989?

16 A. No, I did not.

17 Q. Where did you get that information?

18 A. Detective Callahan.

19 Q. Do you remember telling the jury back in 1989 that Lug
20 made some statements I know where Chris Chaney and
21 Mervin Reese are?

22 A. Yes.

23 THE COURT: Are you quoting from the transcript?

24 MS. SCAPICCHIO: I'm paraphrasing from the
25 transcript. Do you want me to quote from the transcript?

1 THE COURT: I think that would be better.

2 MS. SCAPICCHIO: Okay.

3 Q. At page 110 of the criminal transcript, do you remember
4 being asked the question, this is line 4, "You walked up to
5 Shawn and said what?" And do you remember your answer
6 being, "I know where Mervin and Chaney are at"?

7 A. Yes.

8 Q. Okay. And did you in fact ever hear Lug Taylor back on
9 August 19th of 1988 say anything like I know where Chaney
10 and Reese are at?

11 A. No.

12 Q. And you indicated at the trial of Commonwealth vs.
13 Shawn Drumgold that after this conversation that you say
14 you hear between Mr. Drumgold and Mr. Taylor that they left
15 and went to Schuyler Street; do you remember telling the
16 criminal jury that?

17 A. I don't recall.

18 Q. Okay. At some point in time do you remember telling
19 the criminal jury that Shawn Drumgold and Lug Taylor left
20 Elm Hill Ave. and came back about 30 to 45 minutes later?

21 MR. ROACHE: Your Honor, again I ask that she
22 refer to the trial testimony.

23 THE COURT: Yes. Sustained.

24 Q. This is day 6, October 4th, 1989. Do you remember,
25 Mr. Taylor -- I'm sorry, do you remember, Mr. Evans, this

1 is page 187 that you indicated upon a question, he said, "I
2 know where we can find Mervin and Chaney?" Do you remember
3 saying that at the criminal trial on October 4th of 1989?

4 A. Yes.

5 Q. And then do you remember being asked at page 188, line
6 10, did you see them again some time that night?

7 A. I don't remember.

8 MS. SCAPICCHIO: May I approach the witness, your
9 Honor?

10 THE COURT: Yes.

11 Q. This is line 10, page 188, October 4th, 1989. Can you
12 read that highlighted portion to yourself from line 10 to
13 24, Mr. Evans.

14 A. Did you see them --

15 Q. No, no, just to yourself, I'm sorry.

16 A. I don't remember saying it.

17 MS. SCAPICCHIO: May I approach the witness?

18 THE COURT: Yes.

19 Q. After having read that, Mr. Evans, does it refresh your
20 memory as to whether or not you told the criminal jury in
21 Commonwealth vs. Shawn Drumgold back on October 4th of 1989
22 that you saw -- when you were asked the question, "Did you
23 see them again some time that night," your response, "Yes;"
24 do you remember that?

25 A. No, I don't.

1 Q. And do you remember the next question being, "How much
2 later was that, if you can help us," your answer,
3 "Forty-five minutes to an hour, something like that"?

4 MR. ROACHE: Objection.

5 Q. Do you remember testifying to that back on October 4th,
6 1989?

7 THE COURT: Overruled.

8 A. Yes.

9 THE COURT: The answer is yes. Go on.

10 Q. Do you remember being asked the question, "When you saw
11 them, where did you see them?" Your answer, "They were
12 coming up Elm Hill"?

13 A. Yes.

14 Q. "And were they on foot or in a car?" Your answer, "In
15 a car"?

16 A. Yes.

17 Q. Okay. Did you at some point see Shawn Drumgold and
18 Terrance Taylor in a car coming up Elm Hill Ave. on
19 August 19th of 1988?

20 A. No, I didn't.

21 Q. Where did you get the information regarding the type of
22 car you were in, Mr. Evans?

23 A. It wasn't directly said to me, it was said in my
24 presence.

25 Q. Said by whom, Mr. Evans?

1 THE COURT: Can you speak a little closer to the
2 Mike.

3 Q. Where did you get the information, Mr. Evans, regarding
4 the car that you testified to on October 4th of 1989?

5 A. Detective Callahan and Detective McDonough.

6 Q. Okay. And do you remember testifying, this is page
7 189, that there was some conversation between you and
8 either of these two defendants concerning guns they had?
9 Do you remember that testimony, sir?

10 A. No.

11 Q. This is day 6, October 4th, 1989, lines 14 through 24
12 at page 189. Could you read lines 14 through 24 to
13 yourself, please, Mr. Evans.

14 MS. SCAPICCHIO: May I approach the witness, your
15 Honor?

16 THE COURT: Yes, you may.

17 Q. Mr. Evans, after having read that, does that refresh
18 your memory as to whether or not back on October 4th, 1989,
19 in the case of Commonwealth vs. Shawn Drumgold, you were
20 asked a question about whether or not you had any
21 conversation with these two defendants, and your answer
22 being yes, first I asked, I said, "Where's the guns?" Do
23 you remember that?

24 A. I remember a little bit of it, yes.

25 Q. The next question was, "Who did you ask where's the

1 gun?" Your answer being Lug; do you remember that, sir?

2 A. A little bit, yes.

3 Q. And do you remember at page 190 indicating to the
4 criminal jury that Lug said something, he said something,
5 this is line 6, he said something like they were hot, the
6 guns is hot or something; do you remember testifying to
7 that?

8 A. Yes, I remember that, yes.

9 Q. And did you in fact ever see Terrance Taylor and
10 Shawn Drumgold with guns after the shooting of
11 Tiffany Moore on August 19, 1988?

12 A. No.

13 Q. And tell us again, Mr. Evans, where you got the
14 information regarding the guns?

15 A. Some of the information I got I made up, some I got --

16 Q. Just focus on the guns. Where did you get the
17 information regarding the guns?

18 A. Detective Callahan and McDonough.

19 Q. Detective Callahan and McDonough?

20 A. Yes.

21 Q. Now, when you indicated, Mr. Evans, that some of the
22 information you made up, did you tell us back on Thursday
23 that Detective Callahan never actually said words to you,
24 "say Shawn Drumgold had a gun," right?

25 A. Right.

1 Q. Can you tell us what he would say in front of you to
2 give you the information that you otherwise didn't have?

3 A. He would talk -- could you repeat that, please?

4 Q. Sure. Can you tell us what Detective Callahan would
5 say in front of you to give you the information about the
6 August 19, 1988 shooting that you otherwise didn't have?

7 A. He wouldn't say it directly to me, he would sit across
8 the table or he would discuss it with Detective McDonough,
9 and what I would do, I would just pick up from their
10 conversations.

11 Q. Okay. That was when you were in the restaurant
12 downstairs at the Howard Johnson's on Boston Street?

13 A. Yes.

14 Q. And that would be when Detective Callahan would come in
15 and call you downstairs; is that right?

16 A. Yes.

17 Q. And other than learning these details from Detective
18 Callahan, did you have any idea what happened on the night
19 of August 19, 1988 with respect to the shooting death of
20 Tiffany Moore?

21 A. No, I did not.

22 Q. Do you ever remember describing what Detective Callahan
23 was doing to you regarding the details of the crime as
24 feeding you information?

25 A. Excuse me?

1 Q. Sure. Do you ever describing when you were trying to
2 describe what Detective Callahan was doing to you with
3 these conversations, do you ever remember describing that
4 as he was feeding you information?

5 MR. ROACHE: Objection.

6 MS. SCAPICCHIO: Objection.

7 MR. ROACHE: Objection, we've been through
8 this.

9 THE COURT: Sustained.

10 MS. SCAPICCHIO: I have nothing further. Thank
11 you.

12 CROSS-EXAMINATION

13 BY MS. HARRIS:

14 Q. Good morning, ladies and gentlemen. Good morning,
15 Mr. Evans.

16 A. Good morning.

17 Q. Mr. Evans, are you represented by an attorney as you
18 appear here today?

19 A. Yes.

20 Q. What's the name of your attorney?

21 A. Attorney Patrick Troy.

22 Q. Excuse me.

23 A. Patrici Troy.

24 Q. Patrick Troy?

25 A. Yes.

1 Q. Were you previously represented by Jim McCall?

2 A. Yes.

3 Q. And when did your representation change from Mr. Jim
4 McCall to Mr. Patrick Troy?

5 A. They're partners.

6 Q. They work together?

7 A. Yes.

8 Q. They work in the same office space as Ms. Scapicchio,
9 correct?

10 A. Yes.

11 Q. Now, you testified just a moment ago that you pled
12 guilty in July of 2007 to carrying a dangerous weapon, a
13 doubled-edged knife; is that right?

14 A. Yes.

15 Q. And, in fact, when you pled guilty, you were
16 represented by Mr. McDonough at that time, correct?

17 A. Yes.

18 Q. And after you pled guilty, you then defaulted on the
19 terms of your release, correct?

20 A. Yes.

21 Q. And you were called back into court in February of 1988
22 to clear up that matter; is that right?

23 A. Yes, I think it was around the time.

24 Q. Because a default warrant had issued for your arrest in
25 February of 2008; isn't that right?

1 A. Yes.

2 Q. And Mr. McCall went with you to court in February of
3 2008, correct?

4 A. Mr. McCall was going to court with me since the matter
5 started.

6 Q. So he was with you in February of 2008?

7 A. It was either Mr. McCall or Patrick Troy.

8 Q. And then again in August of this year, you had to go
9 back again in because you had again defaulted on the terms
10 of your release; is that right?

11 A. August?

12 Q. August of 2009?

13 A. No.

14 Q. And it was only at that point that you cleared up that
15 case, correct?

16 A. Actually, it wasn't a default, it wasn't a default, I
17 had to pay a court fine.

18 Q. Well, a warrant issued for your arrest in July of 2009,
19 didn't it?

20 A. It was a court fine I had to pay.

21 Q. So you still hadn't complied with the terms of your
22 release until another default warrant had issued for you;
23 is that right?

24 A. Excuse me.

25 Q. You had not complied with the terms of your release

1 until another default warrant had issued for your arrest in
2 July of 2009?

3 A. I didn't know I had a default on me.

4 MS. HARRIS: May I approach, your Honor?

5 THE COURT: Yes, you may.

6 Q. Mr. Evans, I'm showing you what I believe is the fourth
7 page of criminal docket No. CR-0121, and I'll turn your
8 attention to the notation on July 2d of 2009, do you see
9 where it says "warrant issued"?

10 A. Uh-hum.

11 Q. Is it your testimony that you don't believe a warrant
12 had been issued for your arrest?

13 A. I said it was a fine that I had to pay.

14 MS. HARRIS: Your Honor, I believe this is an
15 agreed exhibit but we'd like to offer a sanitized version
16 of the 2006 document.

17 THE COURT: It's agreed upon?

18 MS. SCAPICCHIO: Yes.

19 THE COURT: It may be admitted. What is the
20 number of the exhibit?

21 MS. HARRIS: No. 10.

22 (Sanitized version of 2006 document was marked
23 and admitted into evidence as Exhibit No. 10.)

24 Q. Mr. Evans, during the time that Mr. McCall has been
25 representing you, have you paid for his services?

1 A. Yes.

2 Q. Did you prepare with Mr. McCall for your testimony last
3 week and today?

4 MS. SCAPICCHIO: Objection.

5 A. No.

6 THE COURT: Overruled.

7 A. No, I did not.

8 Q. Did you review anything in preparation for your
9 testimony?

10 A. I just was told I had to be in court, I got a subpoena
11 to be here, yes, Thursday.

12 Q. Did you speak to anybody about your testimony prior to
13 coming to court today?

14 A. No, I did not.

15 Q. I believe you testified last week you had some
16 outstanding warrants back in 1989?

17 A. Yes.

18 Q. And Detective Callahan told you he was going to wipe
19 those cases out for you; is that right?

20 A. Correct.

21 Q. Now, do you recall testifying in 1989 about the
22 substance of your pending warrants?

23 A. No, I don't.

24 MS. SCAPICCHIO: Your Honor, may I be heard?

25 THE COURT: All right. Sidebar.

1 (THE FOLLOWING OCCURRED AT SIDEBAR:)

2 THE COURT: This is a retrial. In what respect
3 is anything about your cross-examination a surprise that
4 required a sidebar?

5 MS. SCAPICCHIO: Judge, my concern is that the
6 defendants are now going into the testimony regarding
7 whether or not his warrants were actually cleared up or not
8 cleared. I believe that with respect to the 1983 violation
9 it doesn't matter if his warrants were cleared up or not,
10 it's the promise that Detective Callahan made to this
11 before he testified. The fact that Detective Callahan
12 didn't follow through on his promise is not relative to
13 whether or not there was a violation.

14 THE COURT: But the question, whether or not they
15 were cleared up, bears it seems to me on whether or not the
16 promise was made in the first case, and so that it seems to
17 me is what you're talking about so it's perfectly
18 legitimate.

19 MS. HARRIS: Note my objection.

20 (SIDEBAR CONFERENCE WAS CONCLUDED)

21 Q. Mr. Evans, do you recall testifying about your warrants
22 back in 1989?

23 A. No, I do not.

24 MS. HARRIS: One moment, your Honor. Mr. Bailey,
25 could I have TR page 500. This is stipulated.

1 THE COURT: This is stipulated to?

2 MS. HARRIS: It is, your Honor.

3 MS. SCAPICCHIO: What day?

4 MS. HARRIS: It's page 218, it's transcript page
5 500.

6 THE COURT: There should be one screen per two
7 jurors. If your screen isn't working, let us know.

8 Q. Mr. Evans, can you seen the screen? Is that on for
9 you? Mr. Evans, I'm going to direct your attention to line
10 7 where the question is put to you, "Now are these cases
11 still open, Ricky?" Can you read your answer, please?

12 A. "Yes."

13 Q. "Now, how about on October 19, 1987, do you remember
14 then?" What was your answer?

15 A. "What happened that day?"

16 Q. "Do you have an open larceny case from that date?"
17 Your answer?

18 A. "Larceny?"

19 Q. "Out of Roxbury that's still pending?" Your answer?

20 A. Yes.

21 Q. And that's currently still pending?

22 A. It's the 8th of this month, yes.

23 Q. Then the question is put to you, "Sir, all of those
24 cases I went through with you, is it your testimony you
25 don't expect anything in return for your testimony here

1 today?"

2 A. "No."

3 Q. "And those matters have never been discussed with you
4 before you came in here today?"

5 A. "Well, when I went to get my warrants cleared up."

6 Q. "The next page. At the top the question is, "Who took
7 you to get your warrants cleared up?"

8 A. "Sergeant McDonough."

9 Q. "And if you could continue reading."

10 A. "He didn't go. I went by myself. He just drove me
11 there."

12 Q. "And then now at the bottom of the page at line 18, "Did
13 you clear up anything else with Detective McDonough before
14 you testified here?" What was your answer?"

15 A. "I have to go back the 8th of this month."

16 Q. "And then the attorney says, "I'm sorry, Ricky, I didn't
17 hear you, your answer."

18 A. "I have to go back the 8th of this month."

19 Q. "Where do you have to go on the 8th of this month?"

20 The next page, please.

21 A. "Roxbury court."

22 Q. "Okay. What's that for?"

23 A. "The charges that I didn't go to court I messed up on."

24 Q. "And what kind of charges are those?"

25 A. "Trespassing, the larceny and the Class B."

1 Q. Thank you, Mr. Bailey. Mr. Evans, when you testified
2 in 1989, you told the criminal defense attorneys and the
3 court and jury that you were going back to clear up those
4 cases after October 8th of 1989; do you remember that
5 testimony you just read?

6 A. I don't recall that, no.

7 Q. You don't recall that?

8 A. No.

9 Q. Can I use the document camera or the Elmo, please.

10 Mr. Evans, I'm showing you a document, it's a docket 12175.
11 First I'll indicate at the top the name Tyronne Corey. Can
12 you tell the jury who Tyronne Corey is?

13 A. An alias.

14 Q. Whose alias?

15 A. Mine.

16 Q. And above Tyronne Corey it says Ricky Evans, correct?

17 A. Correct.

18 Q. And this docket sheet reflects three different charges.
19 I apologize for the copy, but this will be in evidence.
20 The first charge, disorderly person, do you see that, where
21 the arrow is?

22 A. Yes.

23 Q. The second charge is trespassing on land and dwelling;
24 do you see that?

25 A. Yes.

1 Q. The third one is illegal possession of a Class B
2 substance; do you see that?

3 A. Yes.

4 Q. And these are charges that were pending against you in
5 1989; is that correct?

6 A. Correct.

7 Q. And these are the charges that you're testifying that
8 Detective Callahan was going to wipe out for you?

9 A. I don't remember the charges.

10 Q. You don't remember the charges?

11 A. No, I don't.

12 Q. But you remember that Detective Callahan was going to
13 wipe them out for you; is that your testimony?

14 A. Yes.

15 Q. Now, I'm going to direct your attention to the lower
16 portion of this document where we have various dates. Now,
17 on this document, the date of the offense is December 13th
18 of 1988, and you see at the bottom there's a date,
19 March 28th, 1989. Do you see that date?

20 A. Yes.

21 Q. And then below it there's another date, October 18th,
22 1989; do you see that date?

23 A. Yes.

24 Q. And, in fact, you went back to court on December 18th,
25 didn't you?

1 A. I don't recall.

2 Q. You don't recall? Well, do you recall that Detective
3 Callahan, excuse me, that Detective McDonough brought you
4 into the court to have those defaults removed and a new
5 date scheduled?

6 A. It was Detective Callahan at the time, Mr. McDonough
7 could have been there.

8 Q. I can't hear you, sir.

9 A. I was with Sergeant Callahan. Sergeant McDonough could
10 have been there. My memory is that I was with
11 Mr. Callahan.

12 Q. Well, you testified in 1989 that it was Mr. McDonough,
13 correct?

14 A. I said with my memory I was with Mr. Callahan.
15 Mr. McDonough could have been there.

16 Q. Well, is there a reason that in 1989 you said
17 Mr. McDonough and you didn't say Mr. Callahan?

18 A. I don't remember that.

19 Q. You don't remember that. Do you remember when you went
20 to court with Mr. McDonough in 1989 that there was an
21 attorney represented to appoint you, appointed to represent
22 you?

23 A. I don't recall.

24 Q. I'm showing you another page of this document that's
25 dated June 27th of 1989, and then it says, "Notice of

1 appearance, I enter my appearance as counsel in the case
2 captioned on the reverse of this sheet," and the name is
3 Richard Smith with an address on Huntington Avenue. Do you
4 remember appearing in front of a Judge in June of 1989 and
5 having an attorney appointed to represent you on these
6 cases?

7 A. No, I do not remember that.

8 Q. Then I'm going to show you the docket entries. I
9 direct you to October 18th, 1989 where the docket entry
10 indicates that you appeared in front of Judge Martin and a
11 final continuance was granted. Do you see that?

12 A. What date? What date?

13 Q. I'm sorry, do you see that?

14 A. What date?

15 Q. October 18th, 1989?

16 A. Yes.

17 Q. And then it indicates that the next date is
18 January 12th, 1990, and you didn't appear and a default
19 entered; do you see that?

20 A. Yes.

21 Q. So, according to these records from the Roxbury
22 District Court, on June 27th of 1989 you appeared in court,
23 the Court assigned counsel to represent you and gave you
24 new dates to appear to answer those charges?

25 A. Yes.

1 Q. And that date was after the trial of Tiffany Moore;
2 isn't that right?

3 A. I don't remember, no.

4 Q. Do you remember when the trial of Tiffany Moore was?

5 A. Yes.

6 Q. Do you remember that it occurred in the early part of
7 October, 1989?

8 A. This is over 22 years ago. I don't remember everything
9 that happened back then.

10 Q. I can't hear you, sir.

11 A. This is over 22 years ago. I don't remember everything
12 that happened in 22 years.

13 Q. Well, looking at this document, sir, do you have any
14 recollection of Detective Callahan going with you to court
15 in October of 1989 and wiping out these cases?

16 A. Yes.

17 Q. You do?

18 A. I remember Mr. Callahan going to court with me.

19 Q. And I'm asking you, sir, after you testified in the
20 Tiffany Moore case, and you, according to these documents,
21 appeared in court again to answer these charges in October
22 of 1989?

23 A. I don't recall.

24 Q. You don't recall?

25 A. No.

1 Q. Now, were you also known as Tyronne Bickford in 1989?

2 A. Yes.

3 Q. And you had charges outstanding for trespass, correct,
4 under that name?

5 A. Yes.

6 Q. And you were also known as Raicky Brigham?

7 A. Yes.

8 Q. And that was another name that you used that was not
9 your legal name, correct?

10 A. No.

11 Q. And the purpose in using these aliases was to make sure
12 it was difficult for the courts to catch up with you; isn't
13 that correct?

14 A. Can you repeat that, please?

15 Q. Why don't you tell us what was the purpose of using
16 these aliases back in 1989? Why did you do that?

17 A. Why did I use aliases?

18 Q. Yes.

19 A. I didn't want to go to jail back then.

20 Q. You figured if you used different names when you were
21 arrested for these charges, it would be harder for the
22 police and the Court system to catch with you?

23 A. No, I wouldn't go to jail at the time when the police
24 stopped me, that's why I gave the aliases.

25 Q. I'm sorry, sir, I can't hear you.

1 A. That's why I game them aliases, so I wouldn't go to
2 jail at the time.

3 Q. So they wouldn't know that they had cases that were
4 outstanding against you?

5 A. Yes.

6 Q. And Attorney Smith was appointed to represent you on
7 all of these pending cases; isn't that right?

8 A. I don't recall.

9 Q. I'll show you the last page of docket No. 12175. Where
10 it lists larceny of property, trespass, illegal possession
11 of Class B, disorderly person trespass and it indicates
12 that counsel has been retained, Richard Smith, does that
13 refresh your recollection?

14 A. No.

15 Q. That Judge Banks assigned counsel for you?

16 A. I don't remember that, no.

17 Q. You don't remember that. Finally, sir, on this
18 assignment, notice of assignment form, do you see that the
19 Court indicates that your next court date is October 18th,
20 1989?

21 A. Yes.

22 Q. And that's what you testified to in the trial of
23 Tiffany Moore, isn't it, that you were going back to court
24 to answer these cases on October 18th of 1989?

25 A. I don't recall that.

1 MS. HARRIS: Your Honor, these docket sheets from
2 the Roxbury District Court are stipulated Exhibits 3, 4 and
3 5, and I'd like to move them in.

4 THE COURT: Stipulated?

5 MS. SCAPICCHIO: Stipulated, your Honor.

6 THE COURT: They may be so moved.

7 (Docket sheets from Roxbury District Court for
8 Ricky Evans were marked and admitted into evidence as
9 Exhibit Nos. 3, 4 and 5.)

10 Q. Now, Mr. Evans, you testified on Thursday that one of
11 the things that you were worried about in 1989 was that you
12 had these cases pending against you; do you remember that
13 testimony?

14 A. I could have said it, yes.

15 Q. But recently as 2007, 2008, 2009, you routinely default
16 on your pending criminal cases, don't you, sir?

17 MS. SCAPICCHIO: Objection.

18 THE COURT: Overruled.

19 A. Yes.

20 Q. So it's not that big a worry, is it?

21 A. Yes, it is.

22 Q. When you appeared in Roxbury District Court this
23 October of 1989 with your counsel, you didn't tell the
24 Court that these cases had been wiped out, did you?

25 A. I don't recall.

1 Q. That's because they weren't wiped out, were they,
2 sir?

3 A. They weren't wiped out?

4 Q. They were not wiped out, correct?

5 A. They were supposed to be, yes.

6 Q. Do you remember testifying in Suffolk Superior Court in
7 2003?

8 A. Yes, I have a memory of some of it, yes.

9 Q. Do you remember being asked in 2003 whether anybody had
10 made you any promises to get your cases taken care of?

11 A. At that time?

12 Q. Do you remember in 2003 the assistant district attorney
13 asking you did anybody promise you anything for your cases?

14 A. I think I do, yes.

15 Q. And do you remember what your answer was?

16 A. I think it was no.

17 Q. Your answer was no?

18 A. Yes.

19 Q. And your testimony now in 2009 is that somebody did
20 offer you something for your testimony; is that right?

21 A. For current, no.

22 Q. I'm sorry, sir.

23 A. Not the cases I had now, no, I wasn't promised
24 anything.

25 Q. No, sir, I'm asking you about your testimony in 2003

1 about your pending cases in 1989, the assistant district
2 attorney asked you did anybody promise you anything in
3 exchange for your testimony at the trial of Shawn Drumgold?

4 A. I don't recall that, no.

5 Q. You don't recall being asked that? I'm going to refer
6 to page 53 at the motion for new trial testimony. You were
7 asked, do you remember one of the police officers, whether
8 it was Callahan or anybody else, do you remember any of the
9 police officers telling you that they would do something
10 for you on the cases that were still pending against you,
11 and your answer was, "I don't remember, I don't remember
12 them saying that." Do you remember that testimony?

13 A. No, I don't.

14 Q. You don't remember that?

15 A. I don't remember saying it.

16 Q. On page 54 of your 2003 testimony, the question was put
17 to you, "Do you remember either of the police officers,
18 Murphy or Callahan or any other police officer, never mind
19 their names, do you remember anybody talking to you about
20 anything that they would do for you on those cases if you
21 came into court and testified in a certain way?" And your
22 answer was, "I don't remember?"

23 A. I don't. I don't recall it, no.

24 Q. So you didn't tell the Court in 2003 that Detective
25 Callahan was going to wipe out your cases?

1 A. No.

2 Q. You said, "I didn't remember anybody saying that they
3 were going to do anything for me"?

4 A. I don't recall it, no.

5 Q. You don't recall that?

6 A. No.

7 Q. Do you recall being in court in 2003?

8 A. Yes.

9 Q. But your testimony is that you don't recall this
10 testimony?

11 A. I don't recall what I said, everything I said, no.

12 Q. Again, on page 55 at the bottom, "To the best of your
13 memory, had any police officer said anything to you about
14 those cases which led you to have that hope, that hope
15 being that something would happen with those cases?" Your
16 answer was, "I don't remember."

17 A. I don't.

18 Q. Then you were asked, "Do you remember whether or not
19 the prosecutor, the lawyer, the assistant district attorney
20 who was working with the police and Tiffany Moore's family
21 and all the witnesses, do you remember that person, or
22 anybody working with him, anybody from the district
23 attorney's office had any conversations with you about
24 those pending cases?" And your answer, sir, was, "I don't
25 remember"?

1 A. I don't remember, no.

2 Q. But now you're telling this jury in 2009 that Detective
3 Callahan promised that he was going to wipe those cases
4 out?

5 A. It was Detective Callahan that went with me. It was
6 Detective Callahan I was dealing with the majority of the
7 time back then.

8 Q. I'm sorry, I can't hear a word you're saying.

9 A. It was Detective Callahan I was dealing with back in
10 1988 and 1989.

11 Q. Do you remember you told the truth in 2003?

12 A. Everything I have been testifying to was the truth.

13 Q. Was it the truth in 2003?

14 A. I don't recall everything I testified to in 2003.

15 Q. In 1989, you told the Court Detective McDonough took
16 you to the court and you got your warrants wiped out and
17 you were going back to court on October 18th. Was that
18 true?

19 A. I don't recall.

20 Q. You don't recall. Then in 2003, you told the Court
21 that you don't have a memory of anybody promising you
22 anything in exchange for your testimony. Was that true?

23 A. I don't recall.

24 Q. And now in 2009 you're telling this jury that Detective
25 Callahan was going to take care of your cases?

1 A. Since 1989, since 1989, I went to get my driver's
2 license, I've been stopped by the police --

3 MS. HARRIS: Your Honor, could I have the witness
4 answer the question?

5 THE COURT: Sustained. Repeat the question and
6 the witness will answer. Go on.

7 Q. The question is in 2009, you're telling this jury after
8 your testimony in 1989 that you were promised nothing,
9 after your testimony in 2003 where you said you were
10 promised nothing in exchange for your testimony, now you're
11 saying Detective Callahan promised to wipe those cases out?
12 Yes or no, sir, is that your testimony?

13 A. I don't recall.

14 Q. And that is despite these records that indicate that
15 you went before a Judge, you were assigned counsel and you
16 appeared as indicated on October 18th of 1989?

17 A. I didn't have no cases until recently. The cases that
18 were back in 1988 and 1989 --

19 Q. Thank you, sir, thank you. Now, back in 1989, sir, do
20 you remember if you were employed?

21 A. Yes.

22 Q. And can you tell us what you were employed doing?

23 A. Meat packing.

24 Q. Do you recall testifying in 1988 that in 1989 you were
25 selling drugs?

1 A. I was living on the street, yes.

2 Q. So you were working at Pearl Meat Packing?

3 A. Yes.

4 Q. And you're living on the street and you're selling
5 drugs?

6 A. Could have been, yes, I don't remember everything I was
7 doing.

8 Q. You testified on Thursday to the incident in December
9 of 1988 where you and your cousin Willie were abducted by
10 three men and taken to an apartment?

11 A. Yes.

12 Q. Do you remember that testimony?

13 A. Uh-hum.

14 Q. Now, on Thursday when you testified, you said that you
15 were taken by a man that had a machine gun. Do you
16 remember that testimony?

17 A. It was a machine gun and two handguns, yes.

18 Q. You never testified before Thursday that anybody had
19 abducted you with a machine gun, correct?

20 A. I don't recall.

21 Q. That was new on Thursday?

22 A. No.

23 Q. Do you recall testifying before the grand jury in the
24 case against Treas Carter back in May of 1989?

25 A. It could have been a machine gun. It was three guns

1 they had.

2 Q. You testified in May of 1989 that he had a gun in his
3 pocket?

4 A. No, I don't recall he having it in his pocket.

5 Q. Well, in any event, you testified that you were
6 assaulted and your cousin was killed. Do you remember that
7 testimony?

8 A. Yes.

9 Q. And one of the detectives who was assigned to
10 investigate that crime was Detective Callahan, correct?

11 A. Correct.

12 Q. So you first met Detective Callahan in December or
13 January of 1989, excuse me, December of '88 or January of
14 1989, correct?

15 A. I met Detective Callahan back then, yes. I don't
16 remember what date I met him, but I met him back then,
17 yes.

18 Q. Now, you had never encountered Detective Callahan in
19 any of your criminal activities, correct, he had never
20 arrested you?

21 A. No.

22 Q. You had never met him before you met him as a victim of
23 a crime, correct?

24 A. Correct.

25 Q. And when you met with him, you answered his questions,

1 didn't you?

2 A. If he asked me, yes, I answered.

3 Q. And you told him the details of the crime of the
4 abduction of you and the murder of your cousin, correct?

5 A. I could have, yes.

6 Q. And you told him the names of the people that were in
7 the apartment where you were assaulted, correct?

8 A. I could have, yes.

9 Q. Well, did you or you think you could have, but do you
10 remember giving him that information?

11 A. I don't remember giving that information, no, I don't
12 recall.

13 Q. Do you recall Detective Callahan asking you if there
14 were any witnesses to the crime that occurred that took
15 your cousin's life and wounded you?

16 A. No, I don't remember, no.

17 Q. You don't remember that?

18 A. If he asked me who did the shooting, of course I told
19 him, but I don't remember the exact date that it was on.

20 Q. But do you remember telling him that you knew the
21 identity of the women who were in the apartment where you
22 were shot?

23 A. I think I did. I don't have a vivid memory of it at
24 the time, no.

25 Q. Do you recall telling him that you knew the person who

1 had shot you or at least knew him by his street name,
2 right?

3 A. Yes.

4 Q. And Detective Callahan gave you a photo array?

5 A. A what?

6 Q. He showed you a photo array of pictures of the
7 individuals as part of the investigation into the
8 Treas Carter case?

9 A. Yes, I don't recall that.

10 Q. You don't recall him showing you photographs?

11 A. I remember, yes, he showed me a photo array, yes.

12 Q. And he showed you a lot of photographs, he didn't just
13 show you one?

14 A. I think it was about six. It was a couple of times I
15 remember seeing photo arrays of people.

16 Q. And when he showed you that photo array, you were able
17 to pick out the person who had shot your cousin and had
18 shot at you, correct?

19 A. Yes.

20 Q. And you also were with two other individuals that had
21 guns that were part of that crime?

22 A. Yes.

23 Q. And you have never been able to identify who those
24 people are?

25 A. No, I haven't.

1 Q. You have never seen them before?

2 A. I haven't seen them. I don't remember what they looked
3 like.

4 Q. And are you aware that in 1989 although Chilly was
5 apprehended that the other two men were never apprehended;
6 isn't that right?

7 A. Correct.

8 Q. Now, when you met with Detective Callahan, you gave him
9 information about the case, he showed you a photo array,
10 you identified your assailant and then Mr. Callahan took
11 you to the grand jury to meet with the assistant district
12 attorney; is that correct?

13 A. I don't recall.

14 Q. You don't recall testifying at the grand jury about the
15 shooting death of your cousin and the maming of yourself?

16 A. I remember a little bit of it, yes.

17 Q. You remember that there was an assistant district
18 attorney named Paul Connolly who was assigned to that
19 case?

20 A. No, I don't remember that.

21 MS. HARRIS: One moment, your Honor.

22 Q. Mr. Evans, I'll represent to you that the record
23 indicates that on May 24th of 1989, you testified before
24 the grand jury about the assault that you had experienced.
25 Do you recall that?

1 A. No. I don't remember the date it was. I tried to
2 forget it.

3 Q. Leaving aside the date, do you recall testifying at the
4 grand jury, sir?

5 A. No, I don't.

6 MS. HARRIS: May I approach, your Honor?

7 THE COURT: Yes, you may.

8 MS. HARRIS: This is the excerpt of the grand
9 jury.

10 MS. SCAPICCHIO: This is in relationship to the
11 Treas Carter case?

12 MS. HARRIS: Yes.

13 Q. Showing you a document, sir, I'll ask you to look at
14 the middle of the page.

15 A. Yes.

16 Q. Okay. Does looking at this document refresh your
17 recollection that you did testify at the grand jury?

18 A. If it's on paper, yes.

19 Q. And I'm going to show you on page 22 of this document
20 there is a notation Mr. Connolly asking questions. Does
21 that refresh your recollection that Attorney Connolly was
22 prosecuting this case on behalf of the Commonwealth?

23 A. I don't remember.

24 Q. You don't remember that. Do you remember preparing to
25 testify before the grand jury?

1 A. No.

2 Q. Do you remember whether anybody told you what to say at
3 the grand jury?

4 A. At the trial with me and Willie's trial?

5 Q. That's right.

6 A. No.

7 Q. You don't remember anybody telling you what to say?

8 A. Why would they?

9 Q. You told the truth, right?

10 A. Yes.

11 Q. Now, shortly after you testified at the grand jury in
12 May of 1989, you had a conversation with Detective Callahan
13 and he asked you if you knew anything about the murder of
14 Tiffany Moore; isn't that right?

15 A. I don't recall.

16 Q. You don't recall Detective Callahan calling you to tell
17 you that Treas Carter, Chilly Carter had been indicted for
18 the murder of your cousin and the shooting of you and
19 asking you if you knew anything about the murder of
20 Tiffany Moore?

21 A. I don't remember him calling me and telling me that
22 Chilly was apprehended.

23 Q. How did you find out that he was apprehended?

24 A. Uncle.

25 Q. Your uncle told you Chilly was arrested?

1 A. Yes, that's what I think, yes.

2 Q. So nobody from the district attorney's office told you
3 that Treas Carter had been arrested?

4 A. Not that I recall, no.

5 Q. And nobody from the police department told you that
6 Treas Carter had been arrested?

7 A. Not that I recall.

8 Q. But your aunt knew?

9 A. Excuse me.

10 Q. Your aunt knew and told you about it?

11 A. It could have been my aunt or uncle, yes.

12 Q. Mr. Evans, in June of 1989, you talked to Detective
13 Callahan about the murder of Tiffany Moore, correct?

14 A. I could have.

15 Q. And in June of 1989, you were living with your brother
16 on Trull Street; is that right?

17 A. Well, I wasn't living with him. I was mostly living on
18 the street and I would go by there and spend time with him,
19 yes.

20 Q. Mr. Evans, you told the grand jury in May of 1989 that
21 you lived at 3 Trull Street in Dorchester, didn't you?

22 A. That's the only address I had to use.

23 Q. And that's where your brother lived and where your
24 stepmother lived?

25 A. Yes.

1 Q. That's where you lived?

2 A. That's the only address I had to say where I was
3 living, I wasn't living there, that was the only address I
4 had to give.

5 Q. And in June of 1989, you talked to Detective Callahan
6 at 3 Trull Street about the murder of Tiffany Moore; isn't
7 that right?

8 A. I could have. I don't recall when it was.

9 Q. Do you recall that you were not living at the
10 Howard Johnson's in June of 1989?

11 A. I don't recall.

12 Q. Do you recall telling us at a deposition in 2007 that
13 your birthday is August 13th and that you knew you weren't
14 living in the Howard Johnson's by the time your birthday
15 rolled around?

16 A. I could have. I don't recall that.

17 Q. You don't recall that?

18 A. I could have, but I don't recall it.

19 MS. HARRIS: Just a moment, your Honor.

20 Q. I'll get back to that. Mr. Evans, when you and your
21 cousin were shot, you had been living with him on Elm Hill,
22 correct?

23 A. Yes. We were staying in the area, yes.

24 Q. Well, you lived at 63 Elm Hill, correct?

25 A. I grew up at 63 Elm Hill.

1 Q. And then you moved with your cousin Willie to 118 Elm
2 Hill, correct?

3 A. 118, I wasn't -- I was a street kid, so wherever I
4 could lay my head, I laid my head.

5 Q. So you stayed with your cousin, you stayed with your
6 brother, you stayed with your stepmother, you stayed with
7 your girlfriends?

8 A. I also stayed on the street.

9 Q. They wouldn't take you in, any of those people?

10 A. Well, the life I was living back then, nobody take me
11 in.

12 Q. How many siblings do you have?

13 A. Two.

14 Q. Haven't you previously testified that you've got 13?

15 A. Excuse me.

16 Q. Haven't you previously testified to us that you had 13
17 siblings?

18 A. I thought you said kids, I'm sorry.

19 Q. Brothers and sisters.

20 A. Yes, I have 13, 13, yes.

21 Q. And do you recall telling us that after you were shot
22 when you were living on Elm Hill, after your cousin was
23 shot, that you left the area because you didn't feel safe
24 anymore and you moved to your brother's place on Trull
25 Street in Dorchester?

1 A. I moved around, yes.

2 Q. And you left the whole Grove Hall area after you were
3 shot?

4 A. I moved around. I stayed where I could stay.

5 Q. Well, you stayed outside of the Grove Hall area after
6 you were shot, correct?

7 A. No, it was right outside of Grove Hall area, yes.

8 Q. And you told us that you left Grove Hall because you
9 were afraid that if you stayed there, you were going to be
10 killed; do you remember saying that?

11 A. I could have, yes.

12 Q. And do you recall telling us that you living at Trull
13 Street, you were speaking to Detective Callahan on the
14 phone and Detective Callahan told you that he was
15 investigating the murder of Tiffany Moore?

16 A. I don't recall that.

17 Q. Do you remember being deposed in this case, sir?

18 A. Excuse me.

19 Q. Coming to the offices with all of the attorneys, do you
20 remember that?

21 A. Could you repeat that, please?

22 Q. Do you remember being deposed in this case?

23 A. Deposed meaning?

24 Q. Meaning that you were sitting with all of us and we
25 were asking you questions about this case?

1 A. At the deposition?

2 Q. Yes.

3 A. I remember that, yes.

4 Q. And do you recall being asked about how the question of
5 the Tiffany Moore murder came up?

6 A. A little bit, yes.

7 MS. HARRIS: Mr. Bailey, could you bring up just
8 for the witness' view, not for the whole court, not for the
9 jury, bring up the deposition.

10 THE COURT: He can't control the access.

11 MS. HARRIS: Excuse me, your Honor.

12 THE COURT: He can't control it, and I can
13 control it. What is being portrayed here?

14 MS. HARRIS: The second day.

15 THE COURT: Of what?

16 MS. HARRIS: Of deposition. Page 289.

17 THE COURT: Does the witness have it on your
18 screen?

19 THE WITNESS: Yes.

20 THE COURT: Go on.

21 MS. HARRIS: I don't have it.

22 THE COURT: It doesn't appear on your screen.
23 It's a flaw in the system.

24 Q. All right. I'm directing you to line 12, Mr. Evans,
25 and I'm going to ask you to read line 12, the question was

1 put to you, "Do you recall where you were when you first
2 had the conversation with Detective Callahan?" Can you
3 read your answer?

4 A. I think I was on the phone discussing my cousin's
5 murder, somehow Tiffany came up.

6 Q. And the question was you recall this was a phone
7 conversation?

8 A. It must have been a phone call, yes.

9 Q. And then on line 20, "How long had you talked about
10 your cousin's murder over the phone with Detective Callahan
11 before you started talking about Tiffany Moore?"

12 A. I don't recall about how long the conversation was.

13 Q. Thank you, Mr. Bailey. Mr. Evans, does that refresh
14 your recollection that you told us at deposition that you
15 spoke with Detective Callahan on the phone about your
16 cousin's murder and that then the question of Tiffany Moore
17 came up?

18 A. I don't recall that.

19 Q. That doesn't refresh your recollection?

20 A. No.

21 Q. Do you recall being deposed in 2007?

22 A. Yes, I remember being there, yes.

23 Q. And when you were deposed in 2007, you were under oath,
24 correct?

25 A. Correct.

1 Q. And you were sworn to tell the truth at that
2 deposition, correct?

3 A. Correct.

4 Q. And when you testified that you had been asked about,
5 excuse me, that Detective Callahan had asked you about the
6 Tiffany Moore case, you recall that you told him he had
7 been assigned to that case to investigate that case,
8 correct?

9 A. He could have.

10 Q. I'm sorry.

11 A. He could have. I don't recall it.

12 Q. And do you recall that after you spoke to Detective
13 Callahan about the Tiffany Moore case that he brought you
14 to meet with an assistant district attorney in June of
15 1989; do you remember that?

16 A. No. I don't recall.

17 MS. HARRIS: Mr. Bailey, could I have the trial
18 transcript at page 528. This is J-F.

19 MS. HARRIS: Your Honor, this is a stipulated
20 exhibit so everybody can see it.

21 Q. Now, Mr. Evans, I'll represent to you this is the
22 cross-examination by Mr. Drumgold's attorney, and I'm going
23 to direct your attention to line 10 on this page, and the
24 question reads, "When I say statement, Mr. George, I'll
25 represent to you the other criminal defense attorney,

1 Mr. George, has asked you about a couple of statements. Is
2 it fair to say that in June of this past year, which I'll
3 represent to you is 1989, in June of this past year,
4 June 21st, you accompanied Mr. Callahan and Paul McDonough
5 as well to the district attorney's office?" Your answer?

6 A. "Yes."

7 MS. SCAPICCHIO: That's the question.

8 THE COURT: Wait, I'm sorry, what was the
9 objection?

10 MS. SCAPICCHIO: Judge, the answer is June 21st.
11 The question is yes. His answer is no.

12 THE COURT: If that's what it says, that's what
13 it says.

14 MS. HARRIS: I'm asking him what to read is in
15 the transcript.

16 Q. The answer, "June 21st," do you see that, Mr. Evans?

17 A. Yes.

18 Q. And the question, "Yes," meaning on June 21st, your
19 answer?

20 A. "No."

21 Q. The question, "Some time in June, and I understand you
22 might not remember the exact date, but some time in June,
23 you and Sergeant Callahan and his partner, Mr. McDonough,
24 came to the D.A.'s Office?" Your answer?

25 A. Yes.

1 Q. And the question, "Correct?" Your answer?

2 A. "Correct."

3 MS. HARRIS: The top of the next page, please,
4 Mr. Bailey.

5 Q. And at the top of the page, the question, "And you met
6 with an assistant district attorney at that time, correct?"

7 A. "Yes."

8 Q. "And was that Assistant District Attorney Paul
9 Connolly?"

10 A. "Paul Connolly."

11 Q. "Well, let me ask you this, was it Mr. Beauchesne that
12 you met with that day?"

13 A. "I think it was Beauchesne."

14 Q. Off the transcript for a moment. Do you recall,
15 Mr. Evans, that Mr. Beauchesne was the assistant district
16 attorney who was prosecuting the case brought against
17 Shawn Drumgold and Terrance Taylor?

18 A. I don't recall, no.

19 Q. You don't recall?

20 A. No.

21 Q. Do you recall that there was a prosecutor in that case
22 that you had met with?

23 A. There must have been.

24 Q. Whether or not you remember his name?

25 A. I don't remember his name.

1 Q. But you remember there was an assistant district
2 attorney who was prosecuting the case?

3 A. There might have been. I don't remember.

4 Q. And do you recall that you met with him prior to giving
5 your testimony?

6 A. I don't remember his name.

7 Q. Whether you remember his name or not, do you recall
8 meeting with him before you testified in the case?

9 A. No.

10 Q. And back on the transcript, please. "Your best memory
11 of who you met with were those two police officers the
12 first day you came to talk to someone was
13 Mr. Beauchesne"?

14 A. "Yes."

15 Q. "Were there any other D.A.s, when I say D.A.s, any
16 other district attorneys as opposed to police officer"?

17 A. "I don't remember, I remember talking to
18 Mr. Beauchesne."

19 Q. "Prior to that particular meeting, you had spoken to
20 Sergeant Callahan about cooperating in the investigation of
21 Tiffany Moore, of the Tiffany Moore murder, correct?"

22 A. "Excuse me."

23 Q. "Prior to that meeting with the assistant district
24 attorney, Mr. Beauchesne, you had spoken to Mr. Callahan
25 about cooperating in the Tiffany Moore murder?" Then the

1 next page, please, sir.

2 A. Yes.

3 Q. And then the question, "And when you came to the
4 district attorney's office that day and you met with the
5 assistant district attorney and the police officers, you
6 gave a statement at that time, correct?"

7 A. "Yes."

8 Q. And then question, "When I say a statement, you had
9 talked about what you had to say?"

10 A. "Yes, I talked about it."

11 Q. We can go off the transcript, please. Mr. Evans,
12 having read part of your testimony from 1989, does that
13 help you remember that you had spoken with Sergeant
14 Callahan in June of 1989 about the Tiffany Moore murder?

15 A. I don't know exactly what time around it was when I
16 spoke to him.

17 Q. Do you recall when you spoke to Sergeant Callahan he
18 brought you in to meet with an assistant district attorney
19 so you could tell the assistant district attorney the
20 information that you had about the Tiffany Moore murder?

21 A. I had no information about Tiffany Moore, everything
22 that I said about it I made up.

23 Q. Right, I understand that you're saying that all of the
24 testimony that you offered was made up, but whether it was
25 made up or not, do you have a recollection of meeting with

1 the assistant district attorney and telling him what you
2 had told Sergeant Callahan in June of 1989?

3 A. No, I do not.

4 Q. You don't remember that?

5 A. No.

6 Q. And reading this testimony does nothing to refresh your
7 recollection?

8 A. No, it don't.

9 Q. When you met with the assistant district attorney in
10 June of 1989, did you tell him that your statement was a
11 lie?

12 A. I don't recall.

13 Q. Did you tell him that your statement was true?

14 A. I don't recall.

15 Q. Do you recall anything that you told the assistant
16 district attorney?

17 A. No.

18 Q. Did the assistant district attorney tell you anything
19 to say?

20 A. No, not that I recall, no.

21 Q. Did he try to feed you any information in that meeting
22 in June of 1989?

23 A. No.

24 Q. Now, you testified that as soon as you talked about the
25 murder of Tiffany Moore that Sergeant Callahan whisked you

1 away to the Howard Johnson's; do you recall that
2 testimony?

3 A. Yes, I remember at the time, yes.

4 Q. And do you recall telling us that the time you believe
5 you entered the Howard Johnson's was after your birthday on
6 August 13th of 1989?

7 A. I don't remember now.

8 Q. Do you recall, sir, that when you were deposed and we
9 asked you where the information came from that you had
10 given to Sergeant Callahan, do you recall saying that after
11 the murder of Tiffany Moore that everybody in the
12 neighborhood was talking about it? Page 253. Do you
13 remember telling us at deposition?

14 A. Repeat that, please.

15 Q. Yes. Do you remember telling us at the deposition that
16 everybody in the neighborhood had been talking about this
17 case, correct?

18 A. Correct.

19 Q. And you knew from all of the talk in the neighborhood
20 that the word was that there were two or three shooters who
21 were involved in this crime, correct?

22 A. I don't recall.

23 Q. For the witness' eyes only, please, your Honor, could I
24 have the first page of the deposition at page 263. Can you
25 see that on your screen in front of you?

1 A. No.

2 Q. It's a pretty bad copy. If I may, your Honor, I'm
3 going to approach.

4 MS. HARRIS: May I approach, your Honor?

5 THE COURT: Yes, you may.

6 Q. Day 1, page 263. Mr. Evans, excuse me for coming up on
7 the podium, but I'm going to direct your attention to page
8 263, the line 6, question: "Do you recall it was being
9 reported that there were between two and three individuals
10 involved in the murder of Tiffany Moore?" Then the
11 question, "Where did you get that information?" What was
12 your answer?

13 A. "The streets."

14 Q. Okay. Then the question is, "What other information
15 did you get from the streets?" Can you read your answer?

16 A. "Where?"

17 Q. Right here. Line 15.

18 A. "It was like back then, back then it was mostly -- it
19 was mostly like -- it was mostly like Humboldt, mostly like
20 Humboldt against Castlegate and mostly Humboldt against
21 Castlegate, and Mervin and Chris, what their gang name
22 could have been, what they had got into a squabble with
23 Castlegate, and the next thing you know, Tiffany had got
24 shot and the people started talking about Apple. He went
25 for the retaliation against, he went for retaliation

1 against the argument that Mervin and Chris, they had
2 against Castlegate, and they was going to take care of
3 business, and the next thing you know, Tiffany ended up in
4 their path."

5 Q. And I'm going to direct you to the next question is,
6 "Okay. What other information did you get from the
7 street?" Your answer?

8 A. "I can't recall everything. I can't recall everything
9 you hear. I can't recall everything you hear on the
10 street."

11 Q. Okay. The next question was, "Do you recall whether or
12 not you got any information on the street relative to the
13 getaway car?"

14 A. "Yeah, it was a white car or something."

15 Q. Okay. So when you were deposed in June of 2006, you
16 told us that you had heard on the street that there were
17 two or three shooters and that the motive for the case was
18 a retaliation between two gangs and that the shooters were
19 in a white getaway car; is that what your testimony was in
20 2006?

21 A. Reading it, yes.

22 Q. Reading it, yes. That information came to you from the
23 street, right?

24 A. Not all of it.

25 Q. Well, you testified --

1 A. That's what I testified, but not all of it, no.

2 Q. In this deposition you said you heard about two or
3 three shooters, you heard about the fight between
4 Castlegate and Humboldt Avenue and you heard that the car
5 was a white getaway car from the street?

6 A. I don't recall it.

7 Q. You just read it, you don't recall?

8 A. No.

9 Q. You didn't say in 2006 that the information from the
10 white getaway car was fed to you by Detective Callahan?

11 A. Excuse me.

12 Q. You didn't say in the deposition you just read that the
13 information you got about the white getaway car was fed to
14 you by Detective Callahan, did you, you said you got it
15 from the street?

16 A. No, not that I recall it, no.

17 Q. Not that you recall what?

18 A. That I testified.

19 Q. You don't recall this testimony?

20 A. Not all of it, no.

21 Q. Do you recall that the information that you offered
22 about the white getaway car was information that you had
23 heard from rumor swirling around on the street?

24 A. No.

25 Q. Now, after Detective Callahan and you had a

1 conversation in June of 1989 where you told him the
2 information that you had about the Tiffany Moore case, do
3 you recall Detective Callahan showing you some
4 photographs?

5 A. He showed me a number of photographs back then.

6 Q. He showed you a number of photographs back then?

7 A. Yes.

8 Q. And let's be clear. At the time you and Detective
9 Callahan began talking about the Tiffany Moore case, you
10 knew who Shawn Drumgold was, right?

11 A. I didn't know him, I seen him on the street a few
12 times. I didn't know him like walk up to him and speak,
13 talk, have conversations with him, no.

14 Q. But you knew who he was?

15 A. I seen him on Humboldt when I went -- that was the only
16 store that was around, when I go to the store, I see him on
17 Humboldt, I glanced at him. Other than that, I didn't know
18 him.

19 Q. And you knew who Terrance Taylor was even though you
20 knew him by his street name?

21 A. I knew Shawn and Lug about the same.

22 Q. You knew them not to be buddies, but you knew who they
23 were?

24 A. I didn't speak to them.

25 Q. You knew them by sight?

1 A. Yes.

2 Q. And when Detective Callahan came to you with a number
3 of photographs, and I believe you testified on Thursday,
4 you were shown six photographs, Shawn Drumgold, Terrance
5 Taylor, Theron Davis and a couple of other photographs, do
6 you remember your testimony?

7 A. Yes.

8 MS. SCAPICCHIO: Objection.

9 THE COURT: Overruled.

10 Q. When he showed you those photographs, you knew who
11 Shawn Drumgold was, right?

12 A. Yes.

13 Q. And you knew who Terrance Taylor was, correct?

14 A. Same, yes.

15 Q. And, in fact, you testified in 1989 that you were shown
16 photographs, didn't you?

17 A. Could have, yes.

18 Q. Well, let's be clear about this. Mr. Bailey, if you
19 would bring up the trial transcript. Let's see, it's page
20 TR 1225.

21 THE COURT: This is agreed upon?

22 MS. HARRIS: This is agreed upon. This is the
23 voir dire.

24 Q. Okay. Mr. Evans, I'm going to direct you to the
25 testimony, this is examination by the Assistant District

1 Attorney, Mr. Beauchesne, he's asking questions of you, and
2 I'm going to direct you down to line 9, the question is, "I
3 think you told us first his name was?" And your answer
4 is?

5 A. "Terrence Carter."

6 Q. And continue reading, please.

7 A. "I know him by Lug, not Terrence."

8 Q. And the question is put to you, "You know him by Lug?"

9 A. "Yes."

10 Q. "And that's the street name?"

11 A. "Yes."

12 Q. "Did you know him at that time by his full so-called
13 Christian name?"

14 A. "No."

15 Q. "So the name that you knew of the individual that
16 you've identified here in court today, was his name Lug?"

17 A. "Yes."

18 Q. "And when you attempted to add to it, when is the first
19 time that you heard his so-called Christian name?"

20 A. "When I picked him out of a photo."

21 Q. "You picked him out of photos?"

22 A. "Yes."

23 Q. "As being the man who came up to you?"

24 A. "Yes."

25 Q. "And at that time you learned from the photo or from

1 the police?"

2 A. "Yes."

3 Q. "That his real name was Terrance Taylor?"

4 A. "Yes, Taylor."

5 Q. Thank you. So, according to the trial transcript from
6 your testimony in 1989, you testified that you had been
7 shown photographs and that you picked out Terrance Taylor
8 from that photograph array, correct?

9 A. Correct, could have.

10 Q. So, that's as we've just read, this is questioned by
11 the assistant district attorney, correct?

12 A. Correct.

13 Q. So when you first began speaking to Sergeant Callahan
14 in June of 1989 and you told him what you knew about the
15 murder of Tiffany Moore, he showed you a photo array,
16 correct?

17 A. Could have.

18 Q. And then he brought you in to meet with the assistant
19 district attorney to talk about that information,
20 correct?

21 A. I don't recall.

22 Q. Do you recall when you met -- strike the question. Do
23 you recall speaking with the assistant district attorney at
24 any point prior to taking the stand in 1989?

25 A. No, I don't.

1 Q. Do you recall anybody preparing you to testify in
2 1989?

3 A. No.

4 Q. You don't. Do you recall telling anybody in
5 1989 -- strike the question. Do you recall, sir, that at
6 some point Sergeant Callahan asked you to put your
7 statement on tape?

8 A. Could have. I don't recall, no.

9 Q. Now, we just read from your testimony in 1989 where the
10 questions that were put to you by Mr. Rappaport about
11 speaking to the assistant district attorney in June, he
12 asked you if there had been a tape recorder when you met
13 with the assistant district attorney; do you remember
14 that?

15 A. There could have been but I don't remember.

16 Q. Okay. Well, do you recall that at some point you met
17 with Detective Callahan and gave your statement that that
18 statement was tape recorded?

19 A. It could have been.

20 Q. Do you remember ever listening to that tape
21 recording?

22 A. I think it was here.

23 Q. And you recognized the voice on that tape recording?

24 A. Yes.

25 Q. Mr. Bailey, could we pull up the transcript and the

1 audit cassette. This is a stipulated exhibit, although I
2 don't have the number. I'm going to play this and ask you
3 if you recognize this. No. 5.

4 (Audio recording was played)

5 Q. Mr. Evans, was that your voice we just heard?

6 A. Yes.

7 Q. Do you recall having that conversation that was tape
8 recorded by Mr. Callahan and Detective McDonough?

9 A. I remember some of it, yes.

10 Q. The statement starts off saying that it's August 6th of
11 1989, and you were asked where you were living, and
12 according to the transcript, you said you were living at
13 3 Charles Street in Dorchester; do you recall that?

14 A. Yes.

15 Q. Is that your brother's address?

16 A. No.

17 Q. Do you recall that in August of 1989 that you were not
18 staying at the Howard Johnson's yet?

19 A. I don't remember when I went into the
20 Howard Johnson's.

21 Q. I'm sorry.

22 A. I don't remember what date I went into the
23 Howard Johnson's.

24 Q. Do you recall that you gave that tape recorded
25 statement prior to going to the Howard Johnson's?

1 A. I don't remember when I gave that statement.

2 Q. I can't hear you, sir.

3 A. I don't remember when I gave the statement.

4 Q. Well, the statement was dated August 6th of 1989, and
5 you said you were living at Charles Street. Does that help
6 refresh your recollection of whether you were staying at
7 the Howard Johnson's or not?

8 A. Charles Street is one of the addresses I used.
9 Actually it was my aunt's address, she lived on Charles
10 Street.

11 Q. Do you recall telling us that you were not living at
12 the Howard Johnson's on August 13th?

13 A. No, I don't remember it.

14 MS. HARRIS: May I approach, your Honor?

15 THE COURT: Yes. This is the second volume of
16 the deposition, page 534.

17 Q. And, Mr. Evans, is this a transcript from your
18 deposition taken on July 10th of 2006? On page 534,
19 directing to the bottom of the page, the question is put to
20 you, "Were you staying at the Howard Johnson's on August
21 13th?" What was your answer?

22 A. "I don't think so."

23 Q. I'll direct you to page 535 at the top. The question
24 is, "Do you recall you spent your birthday in 1989 staying
25 at the Howard Johnson's?"

1 A. "I don't recall. I don't recall. I don't recall, I
2 don't think I was."

3 Q. "Okay. Then the question is you don't think that you
4 were staying at the hotel at that time?"

5 A. "I don't think I was staying there at the time."

6 Q. Does reviewing your deposition testimony help refresh
7 your recollection that in August of 1989 you were not
8 staying at the Howard Johnson's?

9 A. "No, it does not. I don't remember."

10 Q. "The statement that we just played here in the
11 courtroom, Mr. Evans, was a tape recorded statement taken
12 from you on August 6th of 1989, and can you tell us the
13 information that you gave in that statement, that
14 information was true, wasn't it?"

15 A. "No, it was not."

16 Q. Well, is it true that you were staying at 3 Charles
17 Street in Dorchester?

18 A. I wasn't staying there, that was the address I used.

19 Q. It was an address that you used?

20 A. Yes.

21 Q. That's not a piece of information that was fed to you
22 by Mr. Callahan, correct?

23 A. 3 Charles Street?

24 Q. Right.

25 A. Not that I remember.

1 Q. You were asked by Mr. Callahan, did we talk before, and
2 your answer was that, yes, you had talked about the
3 Tiffany Moore murder before August 6th, correct?

4 A. Everything, most everything that came out of my mouth
5 on that tape was a lie. None of that happened.

6 Q. And at the time that you were telling these stories to
7 the police, you were not living at the Howard Johnson's,
8 correct?

9 A. That was me meeting with Detective Callahan and
10 Detective McDonough, correct.

11 Q. I can't hear you, sorry, sir.

12 A. I was meeting with Detective Callahan and McDonough,
13 yes.

14 Q. You can't tell us -- we just looked at your deposition
15 testimony, sir, and you said as of August 13th of 1989, you
16 don't believe you were living at the Howard Johnson's
17 yet?

18 A. When I made that statement I was with Mr. Callahan.

19 Q. Yes, you were with Mr. Callahan, that's correct, you
20 were not yet staying at the Howard Johnson's?

21 A. I don't recall, no.

22 Q. And you had made a statement similar to this one in
23 June of 1989 when you met with the assistant district
24 attorney, correct?

25 A. I don't recall.

1 Q. Do you recall that in September of 1989 that a private
2 investigator came to your brother's house on Trull Street
3 looking for you?

4 A. No.

5 Q. Do you recall, Mr. Evans, that during the summer of
6 1989 that the case that was being brought against Treas
7 Carter was scheduled for trial in September of that year?

8 A. I don't remember the date that the trial was, no.

9 Q. Do you recall meeting with an assistant district
10 attorney to prepare for your testimony at the trial of the
11 Treas Carter case in September of 1989?

12 A. No.

13 Q. You don't remember that?

14 A. No.

15 Q. Do you recall meeting with anybody at the district
16 attorney's office by the name of Paul Connolly?

17 A. Not that I remember.

18 Q. Do you recall speaking with Assistant District Attorney
19 Phil Beauchesne about your anticipated testimony in the
20 Tiffany Moore case?

21 A. I don't remember. I could have.

22 Q. Do you remember that you did in fact testify at the
23 Tiffany Moore trial?

24 A. Yes.

25 Q. And do you recall when you testified at the

1 Tiffany Moore case that you were summons into court and you
2 had to sign in as a witness; do you remember that?

3 A. No.

4 Q. Do you remember meeting with anybody prior to getting
5 on the stand in October of 1989?

6 A. Prior to getting on the stand?

7 Q. Prior to getting on the stand.

8 A. Not that I can remember. Not that I can remember.

9 MS. HARRIS: Your Honor, with the Court's
10 permission, I'd like to go through the testimony of
11 Mr. Evans at the 1989 trial.

12 THE COURT: You may.

13 MS. HARRIS: Mr. Bailey, I'd ask you to go to the
14 trial transcript, page 432. Actually, Mr. Bailey, before
15 we get to that stage, I'd like to use a chalk, your Honor,
16 which has been shown to the other side. If I may, just to
17 get the locations.

18 THE COURT: No objection, I take it?

19 MS. SCAPICCHIO: None, your Honor. Sorry.

20 THE COURT: All right. Go on.

21 Q. Is that up on your screen, Mr. Evans?

22 A. Yes.

23 Q. Mr. Bailey, could you focus in on the first square,
24 please. This is a closeup of a map. Do you recognize the
25 streets Humboldt and Homestead?

1 A. Yes.

2 Q. And I'm going to point to a corner. Do you recollect
3 that that's the corner of Homestead and Humboldt Avenue?

4 A. Yes.

5 Q. Now, I think that you had testified earlier that you
6 knew who Shawn Drumgold was because you had seen him by the
7 supermarket.

8 A. I seen him.

9 Q. Okay. And where I've just put the arrow, is that where
10 you recollect that Mr. Drumgold lived at the time back in
11 1988, 1989?

12 A. I don't remember where he lived, I used to see him on
13 the street.

14 Q. Did you testify a little bit earlier you had seen him
15 when you had gone to the store on Humboldt Avenue?

16 A. Yes.

17 Q. Did you know he lived near or above that store?

18 A. No, I did not.

19 Q. Let's stop at this slide, if we could. I'm just going
20 to put a pointer there. That first block, Mr. Evans, that
21 was the intersection we were just looking at in the
22 closeup. Now we're going to look at this block over here,
23 and do you see that this is Elm Hill Avenue?

24 A. Yes.

25 Q. And it's running, Seaver Street is running up on one

1 side and Brookledge runs up to Elm Hill Ave.; is that
2 right?

3 A. Yes.

4 Q. And is that consistent with how you recollect that
5 neighborhood, that's how those streets are laid out?

6 A. Yes.

7 Q. Now, there's a red building here, 118, and that's the
8 building where your cousin Willie lived, correct?

9 A. Excuse me.

10 Q. 118 Elm Hill, that's the building where your cousin
11 Willie lived there?

12 A. He didn't live there, my other cousin lived there.

13 Q. 118 is the place where you sometimes stayed?

14 A. Yes.

15 Q. And beside it we have Sonoma Street and one street up
16 from there is Seaver Street, correct?

17 A. Right.

18 Q. Now, this neighborhood is bordered by Franklin Park.
19 Is this the area that's shown on this photograph, is this
20 the neighborhood that you were referring to as Grove Hall?

21 A. That's Seaver Street.

22 Q. Okay. Seaver Street runs along Franklin Park,
23 correct?

24 A. Correct.

25 Q. And this up here, that's Humboldt and Homestead,

1 correct, and then over here about a block away is Elm Hill,
2 correct?

3 A. Excuse me, repeat that please.

4 Q. Yes. Up here where I put this purple mark at the top
5 of the screen, where that purple mark is, that's the
6 Humboldt and Homestead intersection, correct?

7 A. Yes.

8 Q. And then down here we have Seaver Street, right, that
9 runs along the park?

10 A. Yes.

11 Q. And then over here we have Elm Hill Avenue, correct?

12 A. Yes.

13 Q. So we can all be oriented.

14 MS. HARRIS: Thank you, Mr. Bailey.

15 Q. Could you start with the transcript, please.

16 Mr. Evans, I'm going to direct you to the screen now that's
17 up in front of you, and I'm going to represent to you that
18 this is the direct, excuse me, this is the testimony that
19 you provided in 1989, and I'm going to ask the questions,
20 and I'm going to ask you to read your answers, okay?

21 A. Uh-hum.

22 Q. All right. So this is the direct examination by
23 Mr. Beauchesne, and we begin in asking you to tell us your
24 name, sir, and your answer, please.

25 A. Ricky Evans.

1 Q. How old are you, Mr. Evans?

2 A. I'm 20.

3 Q. Back in 1988 --

4 THE COURT: I'm sorry, I didn't understand are
5 you going through his entire testimony?

6 MS. HARRIS: Yes, your Honor.

7 THE COURT: Is there some reason we have to do
8 that rather than skipping around or letting the jury read
9 about this? The jury will have this testimony. Why do we
10 need to go through it?

11 MS. HARRIS: I can skip through it, your Honor,
12 if you'd like me to simplify it.

13 THE COURT: I would like you to simplify it.

14 MS. HARRIS: I would like the jury to hear the
15 background information, where he establishes his age and
16 where he was living and when he became involved in it,
17 yes.

18 THE COURT: I'll let you do that to a degree,
19 yes. We'll see where we're going. The transcript will be
20 available to the jury, and you can argue from it. The
21 question is whether or not he has a comment to make on the
22 transcript. That's the only purpose for which it should be
23 offered if you'd skip around.

24 Q. With that, looking at the transcript, sir, so you're
25 asked, "How old are you, Mr. Evans," and can you give us

1 your answer, please?

2 A. "I'm 20."

3 Q. Then on line 12, on line 9, "Back in 1988, August 19th,
4 do you recall the night Tiffany Moore was shot?"

5 A. "Yes."

6 Q. "And during that evening, at some time did you happen
7 to be in the company of an individual by the name of
8 Shawn Drumgold?"

9 A. "Yes."

10 Q. "And do you see here today the individual that you were
11 with that evening?"

12 A. "Yes."

13 Q. And then the transcript reflects that you identified
14 Mr. Drumgold in open court. Go to the next page, please.
15 On line 16, the question was, "Where were you at the time,
16 at the time that you saw Mr. Drumgold?" Can you answer,
17 please.

18 A. What number?

19 Q. Line 17.

20 MS. SCAPICCHIO: Judge, is there a question?

21 THE COURT: I'm waiting for a question.

22 A. 118 Elm Hill, the corner of Sonoma and --

23 THE COURT: You've asked him to recite what he
24 has recited which the jury will have.

25 MS. HARRIS: I'm going to ask him now, your

1 Honor, the 118 Elm Hill Avenue that he testified to in 1989
2 is the location that was just identified by me.

3 THE COURT: You can have it.

4 Q. Mr. Evans, you answered 118 Elm Hill Avenue, the corner
5 of Sonoma and Elm Hill, and that's the area we just looked
6 at on the map; is that right?

7 A. Yes.

8 Q. And 118 Elm Hill Avenue is where one of your cousins
9 lived; is that right?

10 A. Yes.

11 Q. So when you were asked if you had seen Mr. Drumgold on
12 the night of the Tiffany Moore murder, you indicated that
13 you saw him at the apartment building where your cousin
14 lived?

15 A. I never seen Mr. Drumgold.

16 Q. I'm asking you what you said when you were testifying
17 under oath in 1989, is that what you told the jury that you
18 saw him at the apartment building where your cousin was
19 living where you sometimes stayed?

20 A. I don't remember everything I testified. Everything
21 was a lie.

22 Q. The next line on page 19 is how far is that from the
23 corner from Humboldt and Homestead, and your answer was two
24 blocks?

25 A. About two blocks.

1 Q. That's correct, right, what we just looked at, the
2 corner of Elm Hill and Sonoma is about two blocks from the
3 corner of Homestead and Humboldt, correct?

4 A. Yes.

5 Q. And then you indicated that your cousin Willie Evans
6 was also there with you?

7 A. Uh-hum.

8 Q. Your cousin Willie Evans that you testified to in 1989
9 was the individual that you testified that was shot in
10 December of '88, correct?

11 A. Yes.

12 Q. And now we're at the Tiffany Moore murder some few
13 months before the incident where you and your cousin were
14 shot, correct?

15 A. Could have. I'm not for sure.

16 Q. Do you remember that the shooting of yourself and your
17 cousin occurred in December of 1988?

18 A. I don't remember what date it was we got shot.

19 Q. Do you remember what year it was that you got shot?

20 A. It must have been '88 or '89.

21 Q. Okay. It was after the shooting death of
22 Tiffany Moore, wasn't it?

23 A. I don't recall. I don't remember the majority of
24 things that happened that I testified about Tiffany.

25 Q. On the page 434 that's up on your screen, you testified

1 that you were with your cousin and that he was shot and
2 that he had been killed. Now, when you testified to that
3 in 1989 on page 434, when you testified that you were
4 present and your cousin was shot, that was truthful
5 testimony, wasn't it, sir?

6 A. Excuse me.

7 Q. That testimony was truthful when you told the jury in
8 1989 that you and your cousin had been shot?

9 A. True.

10 Q. That was true, right?

11 A. Uh-hum.

12 Q. Now, if I could go, please, to page TR 1227, and do you
13 recollect answering the district attorney in 1989 that when
14 you were with Shawn Drumgold and Terrance Taylor on the
15 evening of August 19th of 1988 that you heard Terrance
16 Taylor say to Shawn Drumgold, I know where Chris and Mervin
17 and Chaney are? Do you recollect that you testified to
18 that effect?

19 A. No.

20 Q. On page 1227, there was a question at line 15 that
21 says, "Did you hear a conversation between the man you know
22 as Lug and the individual that you know as Shawn Drumgold?"
23 And your answer was?

24 A. "Yes."

25 Q. "And would you tell us what you heard?"

1 A. "He walked with Shawn," and he said, "I know where
2 Chris and Mervin and Chaney."

3 Q. And they asked you to repeat that testimony, and on the
4 next page at line 6, can you read your answer?

5 A. I know where Mervin and Chaney, yes, that's what he
6 said, Mervin and Chaney.

7 Q. Thank you. Now, off the transcript, Mr. Evans, we
8 looked at your deposition testimony where you said that the
9 word on the street was that Mervin and Chris were running a
10 retaliation and that that's what led to the shooting that
11 Tiffany Moore had been caught up in, do you remember your
12 testimony from the deposition?

13 A. I don't remember saying there was retaliation.
14 Everything is on the screen here. I barely remember it
15 because most everything here on the Tiffany Moore was made
16 up back then. I don't remember everything I said.

17 Q. Okay. But I'm asking you what you said in 2007 when we
18 asked you what information you got from the street, and you
19 told us that you had heard on the street that there was a
20 beef going on between Castlegate and Humboldt involving
21 Mervin and Chris Chaney and that Tiffany Moore got shot as
22 a result. Do you remember testifying to that effect in
23 2007?

24 A. I could have. I don't recall.

25 MS. HARRIS: Just one minute, your Honor.

1 Q. In any event, you had heard on the street that there
2 was a beef between Castlegate and Humboldt. That wasn't
3 anything that was fed to you by Detective Callahan; isn't
4 that right?

5 A. I don't recall.

6 Q. And when you testified in 1989 that you heard Terrance
7 Taylor say to Shawn Drumgold I know where Mervin and
8 Chaney's at, that was information that was not prompted,
9 not given to you or fed by Detective Callahan; isn't that
10 right?

11 A. It could have been said in front of me and I picked up
12 on it and I testified to it, yes.

13 Q. So, is it your testimony, Mr. Evans, that this
14 information was said to you and then you went in and talked
15 to the assistant district attorney and gave him the
16 information that was fed to you in June of 1989?

17 A. I don't remember talking.

18 MS. SCAPICCHIO: Objection. He didn't say
19 that.

20 THE COURT: Excuse me, I don't understand the
21 question either.

22 Q. When you met with the assistant district attorney in
23 June of 1989 and you told him what you knew about the
24 Tiffany Moore murder, was that information that had been
25 fed to you by Detective Callahan?

1 A. I don't remember talking to the assistant district
2 attorney back in '89.

3 Q. And looking at the testimony from 1989 where you said
4 you met him in June of 1989, that doesn't help refresh your
5 recollection?

6 A. No.

7 Q. If you could go to page 1235, please. At line 18,
8 Mr. Evans, you were asked, "At that particular time after
9 there was conversation and you saw their guns, what
10 happened?" Your answer?

11 A. "They turned around and went back down Elm Hill."

12 Q. And the question was, "Down Elm Hill, in what
13 direction?"

14 A. "Towards Schuyler."

15 Q. "And did you see them again that night, the night of
16 the shooting?"

17 A. "Yes."

18 Q. Now, off the transcript for a moment. We just
19 identified Schuyler Street as running off Elm Hill Avenue,
20 correct?

21 A. Correct.

22 Q. So when Schuyler Street when you testified you saw them
23 going from Elm Hill to Schuyler Street, you're referring to
24 about a block away from where your cousin was staying,
25 correct?

1 A. Repeat that, please.

2 Q. When you testified you saw Mr. Drumgold and Mr. Taylor
3 walk down towards Elm Hill towards Schuyler, you were
4 testifying that they were walking in front of your cousin's
5 building to the next block, which is Schuyler Street,
6 correct?

7 A. They couldn't have been. It was all made up. I mean,
8 I know that area like the back of my hand. I grew up
9 there. I knew where what street is where, you know.

10 Q. And Schuyler runs off Elm Hill, correct?

11 A. Yes, it does.

12 Q. Then on the next page, if I take you to line 9, "Some
13 time after you saw them in the car, did you see them
14 again?"

15 A. "Yes."

16 Q. And the question is, "Where was that?" Your answer at
17 line 13. It's page 1236, Chris. Then at line 13,
18 Mr. Evans, you were asked, "Where did you see them after
19 you saw them in the car?" At line 13.

20 A. They was coming from Seaver Street. It was coming up
21 from Seaver Street.

22 Q. Chris, could we bring up the map again. So, according
23 to the testimony that you gave in 1989, you saw
24 Mr. Drumgold and Mr. Taylor walk down Elm Hill towards
25 Schuyler Street?

1 A. I didn't see them.

2 Q. I'm asking you about what your testimony was in 1989.
3 You're going down Elm Hill Avenue towards Schuyler Street,
4 then some time later coming back up toward Elm Hill from
5 Seaver Street; is that correct?

6 A. That was in the testimony, yes.

7 Q. If we could, please, go to page 486. At the bottom of
8 the page, on line 19, you state, "When Shawn turned around,
9 I think he had on a sweater or something," at line 22, you
10 state, "He had on like a sweater," then at line 24, "and he
11 had a pistol up under it." Do you see that testimony?

12 A. Uh-hum, yes.

13 Q. Is it your testimony that Detective Callahan told you
14 to say he was wearing a sweater on August 19, 1988, or is
15 that one of the things you made up on your own?

16 A. I don't recall.

17 Q. Then on the next page at 487, you're asked at line 10,
18 "Did you see them again some time that night?"

19 A. "Yes."

20 Q. And then line 13, 45 minutes to an hour, excuse me, I'm
21 sorry, at line 12, "How much later was that?" If you can
22 help us in your answer.

23 A. "45 minutes to an hour, something like that."

24 Q. Then on page 488 at line 6, you're asked, "Did you go
25 anywhere?" And your answer is, "No, 118." That means you

1 were staying at 118, right, you didn't leave 118?

2 A. I don't understand.

3 Q. At the top of the page when they came back, at line 2,
4 "When they came back, what, if anything, did you do?" What
5 was your answer?

6 A. "We bought some beer."

7 Q. Question, "Who bought the beer?"

8 A. "Willie."

9 Q. "And did you go anywhere?"

10 A. "No, 118."

11 Q. Off the transcript. So you mean that you stayed at
12 118?

13 A. We stayed there for a little while.

14 Q. Okay. Then going down to line 20, excuse me, line 17,
15 "At some time though there was some conversation between
16 either one of these defendants concerning the guns they
17 had." What was your answer?

18 A. "Yes. First I asked, I said, where's the guns?"

19 Q. The question is, "Who do you ask where's the guns?"

20 A. "Lug."

21 Q. "Lug Taylor?"

22 A. "Yes."

23 Q. "What did he reply?"

24 A. "At first he didn't say nothing about the guns, so he
25 had drunk another beer, and then I asked him about it, and

1 he said they was hot or something."

2 Q. And read your answer at line 6.

3 A. "He said something like they was hot. The guns is hot
4 or something."

5 Q. And then if we could go down to line 22, the question
6 was, "Where was Drumgold when that was said?" What was
7 your answer?

8 A. "He was standing there."

9 Q. Question, "Did he say anything about the guns?"

10 A. "Not that I recall."

11 Q. And then, "Was there anything about the behavior of
12 either of these two men that attracted your attention?"

13 A. "Nervous."

14 Q. "Who was nervous?"

15 A. "Shawn."

16 Q. And going off the transcript, so the piece of testimony
17 that they just read, Mr. Evans, was this information that
18 you heard from the streets? Was this information that you
19 made up?

20 A. I don't recall.

21 THE COURT: Let's take our morning break at this
22 time. All rise for the jury.

23 (A recess was taken.)

24 THE CLERK: All rise for the jury.

25 THE COURT: You can be seated.

1 MS. HARRIS: Could we see you at sidebar?

2 THE COURT: Yes.

3 (THE FOLLOWING OCCURRED AT SIDEBAR:)

4 THE COURT: Explain to me why you couldn't have
5 told Maryellen before the jury came out.

6 MS. HARRIS: I apologize. Just one second I
7 wanted to put an objection not to go into the entire
8 transcript.

9 THE COURT: Okay. Your objection is noted.

10 MS. HARRIS: Thank you.

11 (SIDEBAR CONFERENCE WAS CONCLUDED)

12 Q. Mr. Evans, before we took the break, we were talking
13 about your testimony that you offered in 1989, and I had
14 asked you if you recalled being visited by a private
15 investigator prior to your testimony in 1989. Do you
16 recall me asking you that question?

17 A. Yes.

18 Q. And I believe your testimony was you had no memory of a
19 private investigator coming to see you prior to you taking
20 the stand in the Tiffany Moore murder; is that correct?

21 A. Not that I recall.

22 MS. HARRIS: Could I please see the transcript at
23 page 517, Mr. Bailey.

24 Q. Turning your attention to line 5, Mr. Evans, the
25 question, first full sentence states, "Do you remember an

1 investigator coming to your house on September 12th at
2 about eleven in the morning? And the Court says, "This
3 year?" And Mr. George says, "Yes, this year." Your
4 answer?

5 A. "Oh, yes."

6 Q. Do you recall as you sit here today, Mr. Evans, does
7 this transcript refresh your recollection that you were
8 visited at your house on September 12th, 1989 by a private
9 investigator?

10 A. No.

11 Q. Does this testimony refresh your recollection that on
12 September 12th of 1989 you were living with your brother on
13 that date?

14 A. No.

15 Q. Do you have a recollection, Mr. Evans, of being visited
16 by an investigator on September 12th at your brother's
17 house and then calling Detective Callahan to say that
18 somebody had come by the house and was asking you questions
19 about the Tiffany Moore murder?

20 A. I don't remember.

21 Q. Well, you recollect, I believe you testified last week,
22 Mr. Evans, that you were taken by Detective Callahan to the
23 Howard Johnson's, correct?

24 A. Yes, correct.

25 Q. Now, as you sit here today, do you recollect that the

1 day you were taken to the Howard Johnson's was
2 September 12th of 1989?

3 A. Not for sure, I'm not sure.

4 Q. You're not sure of the date?

5 A. No, I don't remember.

6 Q. And you don't remember somebody coming to your house
7 and asking you what your testimony was going to be in the
8 Tiffany Moore case?

9 A. No.

10 Q. Somebody other than a police officer?

11 A. No.

12 Q. And you don't recollect testifying in 1989 that an
13 investigator came to your house at about eleven in the
14 morning asking you about the Tiffany Moore case?

15 A. I don't recall.

16 MS. HARRIS: Take that down, Mr. Bailey.

17 Q. Now, when you were taken to the Howard Johnson's, you
18 were staying with your brother, correct?

19 A. I was at my brother's house.

20 Q. You were at your brother's house?

21 A. Yes.

22 Q. And the police knocked on the door, correct?

23 A. Correct.

24 Q. And when the knock came at the door, your testimony is
25 that that was Detective Callahan, correct?

1 A. Correct.

2 Q. And you had no idea why he was there?

3 A. Excuse me.

4 Q. You had no idea why he was there?

5 A. When the door was answered, the door was answered,
6 there was three cops actually, Detective Callahan, who I
7 went downstairs with, and there was a cop on the front
8 porch and a cop standing by the corner. They put me into
9 the car, and they took me right to Howard Johnson's
10 Hotel.

11 Q. And did you ask him why he was taking you to the
12 Howard Johnson's hotel?

13 A. No, why would I ask Mr. Callahan?

14 Q. Why would you ask him?

15 A. Yes.

16 Q. Did you know why you were going?

17 A. I trusted him.

18 Q. Did you call Detective Callahan earlier that day?

19 A. No, I don't recall.

20 Q. And report that you were having concerns that somebody
21 was coming around your house looking for you?

22 A. No, I don't recall.

23 Q. Do you recall that when you testified in the trial of
24 Tiffany Moore, do you recall how you got to the
25 courthouse?

1 A. From the hotel?

2 Q. Yes.

3 A. I don't recall, but, no, I don't recall.

4 Q. You don't recall?

5 A. No.

6 Q. Now, I believe that you testified on Thursday that when
7 you were staying at the hotel that Mr. Callahan came by and
8 gave you money?

9 A. Yes.

10 Q. And I believe that you testified that he gave you \$45,
11 \$50 whenever you asked him for it; is that your
12 testimony?

13 A. Whenever I wanted it, whenever I needed money, I just
14 called him, and he'd bring it to me.

15 Q. And he'd come and show up and give you money?

16 A. Yes.

17 Q. And do you recall testifying on Thursday that this
18 happened, you couldn't remember how many times, but you
19 said it was quite a few times; do you remember that
20 testimony?

21 A. That he --

22 Q. That he came to give you money when you called him and
23 asked for money?

24 A. I seen him quite a few times, yes.

25 Q. Do you recall that when you testified at the motion for

1 new trial that you said on page 20 that they would -- you
2 said they would give you money, 35, 40, 45, money sometimes
3 weekly, sometimes biweekly? Do you remember your testimony
4 at the motion for new trial?

5 A. Whenever I wanted it.

6 Q. Was that a weekly paycheck or paid every week, every
7 biweek?

8 A. I wouldn't say a paycheck, I'd say whenever I needed
9 it, he gave it to me, I got it.

10 Q. And all you had to do was call him and the money would
11 show up?

12 A. That was it.

13 Q. For how long did that last, that arrangement?

14 A. I was in Howard Johnson's for at least eight, at least
15 eight months, and after the trial, it was like he
16 disappeared and I didn't see anybody. I didn't see nobody
17 no more.

18 Q. Did you call him and say, hey, I could use \$80 bucks?

19 A. No, I was staying at the hotel and I was working at the
20 same time myself.

21 Q. And after the trial, you didn't bother calling
22 Detective Callahan?

23 A. I didn't see anybody. It was just like they faded
24 away. I did what was asked, and after they finished with
25 me, it was like they just faded away.

1 Q. Nobody asked you to do anything, did they, Mr. Evans?

2 A. Excuse me.

3 Q. Nobody asked you to do anything, did they?

4 A. What I picked up on, why sit in front of me and discuss
5 something and put me up in a hotel? Everything I wanted --

6 Q. When you were put up in the hotel, you had already
7 given you statement in June of 1989, hadn't you, sir?

8 A. Excuse me.

9 Q. When you were put up in the hotel, you had already
10 given your statement in June of 1989, had you not?

11 A. I don't recall.

12 Q. You had already given your tape recorded statement on
13 August 6th of 1989, hadn't you?

14 A. I don't recall. If it's on tape, it must have been.

15 Q. And in the deposition, excuse me, in the trial
16 transcript when you were asked if an investigator came to
17 your house on September 12th about eleven in the morning,
18 you said yes, so on September 12th, you were living in your
19 brother's house, you weren't living at the
20 Howard Johnson's?

21 A. No, I said I was at my brother's house. I didn't say I
22 was living there.

23 Q. And that's the place you went back to after you left
24 the Howard Johnson's, right, you went back and lived with
25 your brother again?

1 A. I don't recall where I went after the
2 Howard Johnson's.

3 Q. In any event, is it your testimony you left the
4 Howard Johnson's because you got tired of living there?

5 A. I wasn't receiving anything, I mean, everything faded
6 away, and it was like I was on my own. I got tired of
7 being there so I just packed up and I just left.

8 Q. Did you ever call Detective Callahan and say, hey,
9 let's have dinner?

10 A. No.

11 Q. You testified earlier on Thursday that the two of you
12 would have dinner at the Howard Johnson's?

13 A. As I was staying there, as I was staying there,
14 downstairs would call upstairs, I would go downstairs and
15 meet them and we would eat in the cafeteria. It was always
16 the three of us.

17 Q. Mr. Evans, you were arrested a couple of times
18 following your testimony in 1989, were you not?

19 A. Yes.

20 Q. And at those occasions when you were arrested, you were
21 assigned counsel, correct, to represent you, assigned an
22 attorney?

23 MS. SCAPICCHIO: Objection, your Honor.

24 THE COURT: Overruled.

25 A. Yes.

1 Q. Did you ever have anything filed with the Court that
2 said I lied in a murder trial in 1989?

3 A. No.

4 Q. Did you ever tell anybody in your family that you lied
5 when you testified in 1989?

6 A. Not that I recall. I mostly kept it to myself.

7 Q. Did you ever tell anybody from Mr. Drumgold's family
8 that you lied in the murder trial in 1989?

9 A. I don't know anybody in Mr. Drumgold's family.

10 Q. Did you ever reach out to Mr. Taylor and said sorry?

11 A. I don't know Mr. Taylor.

12 Q. The first time you said anything to anybody in 1989 is
13 when you were approached by a reporter from the Boston
14 Globe, right?

15 A. Reporter? I remember I had started receiving cards,
16 business cards under my door, so I talked to him and he
17 wanted me to meet me in South Boston. I told him I had to
18 pick my son up, my son was a couple years old, and so when
19 I met him in South Boston --

20 Q. And you told him that everything that you had testified
21 was true?

22 A. When I met him in South Boston, he started bringing up
23 the Shawn Drumgold case. I said, "I have my son in the
24 car." I wanted to get him home because I didn't want to be
25 bothered with the case anymore.

1 Q. You told him that your testimony was true and that the
2 way you testified was the way it happened, didn't you?

3 A. I never told him the testimony was true.

4 Q. After this article came out, that's the first time that
5 you appeared in any court anywhere to say your testimony
6 that was false?

7 A. No.

8 Q. And isn't it that because you felt you had been
9 disgraced by his article?

10 A. No, the first time I got to Court was when I got a
11 letter in the mail saying I had to be in the court.

12 Everybody have a conscious, and my conscious was I lied and
13 I had a guy locked up for a certain amount of years, and it
14 stuck with me for the longest, all my life, and I got tired
15 living with those, that guilt, that's the only time I could
16 make it up right, try to make things right.

17 Q. That's the only time you could do anything about it.
18 You couldn't do anything about it when you were on the
19 stand?

20 A. It was conscious. I have a conscious, yes.

21 Q. Where was it in 1989?

22 A. Excuse me.

23 Q. Where was it in 1989?

24 A. In Mr. Callahan's pocket.

25 Q. That wasn't very nice. When you testified in 2003 and

1 you testified that you couldn't name a single person who
2 had fed you information --

3 A. Excuse me.

4 Q. When you testified in 2003 and you were asked to
5 identify who fed you information, you couldn't identify a
6 single person who had given you any information?

7 A. I don't recall that.

8 Q. You don't recall it?

9 A. No, I don't.

10 Q. Mr. Evans, in the summer of 1989, when you were a
11 witness both in the Treas Carter case and in the
12 Tiffany Moore case, do you recall meeting with a victim
13 witness advocate from the Suffolk County D.A.'s Office
14 called Laura Scherz?

15 A. No.

16 Q. Do you recall meeting with Laura Scherz and talking to
17 her about getting job training?

18 A. No.

19 Q. Do you recall meeting with Ms. Scherz and talking about
20 getting housing arrangements so you could live with the
21 mother of your child?

22 A. I don't remember meeting her. I could have met with
23 her, but I don't remember meeting with her.

24 Q. Do you recall in the summer of '89 you had a little
25 girl?

1 A. Yes, correct.

2 Q. She was a couple months old?

3 A. Yes. She was a baby, yes.

4 Q. And when you testified in the Tiffany Moore case and
5 the defense attorneys asked you why you suddenly developed
6 a civic duty, and you told them that you had a daughter,
7 that if somebody killed her, you would want somebody to
8 testify for her; do you recall that testimony?

9 A. Could you repeat that?

10 Q. Yes. When you were asked in 1989 by the defense
11 attorneys why you had come forward to provide information
12 in the Tiffany Moore case, you told them because you were a
13 father and you had a little girl and if it happened to your
14 little girl, you'd want somebody coming to court; isn't
15 that what you told the defense attorneys in 1989?

16 A. I could have, but I don't recall.

17 Q. You don't recall swearing on your daughter when you
18 went to court?

19 A. I could have, but I don't recall it.

20 Q. Trial testimony, please, at page 523. Mr. Evans, I'll
21 tell you that at this point in your trial testimony you
22 were describing that you knew the difference between a
23 blackjack and a knife and a gun, and then at line 11,
24 you're asked by Mr. Drumgold's attorney, "You're positive
25 that you're telling the truth here today?" Can you read

1 your answer?

2 A. "Today, yes."

3 Q. And at 14, "You never told anyone this," your
4 testimony, "until June of this year?" Your answer?

5 A. "It wasn't my business to get into it."

6 Q. "But it became your business in June of this year?"

7 A. "I just felt like the lady, she lost her daughter, so
8 why not go and tell the truth when you can?"

9 Q. And then at line 19, "Is that what you felt all of a
10 sudden, all of a sudden you felt that way, Ricky?" Your
11 answer?

12 A. "Well, I tell you something. I got a daughter myself,
13 and I wouldn't want her to be sitting on the mailbox and
14 get shot."

15 Q. So when you testified in 1989 and the defense attorneys
16 asked you if you were telling the truth, asked you if you
17 were positive that you were telling the truth, you said
18 that you were, and you said, "I tell you something, I've
19 got a daughter myself;" isn't that what you testified to?

20 A. Yes, that's what's on here, yes.

21 Q. That's what's on there. And you told them about your
22 daughter because you wanted them to believe you, right?

23 A. If -- if I wouldn't have testified, if I wouldn't have
24 testified back then in '88, '89, about the things about
25 what I was supposed to say or what was fair to me, I was

1 young, I was on the street. I didn't know where I was
2 going to sleep the next night. I didn't know where I was
3 going to get my next meal from.

4 Q. And then you got tired?

5 THE COURT: Let the witness answer.

6 A. I didn't know where I was going to sleep the next day,
7 I didn't know where I was going to eat. You got two
8 detectives backing you up for everything you do, of course
9 I lied. It was a lie.

10 Q. And, in fact, you lied to the detectives, didn't you?

11 A. Excuse me, about?

12 Q. You lied to the detectives about the information that
13 you gave them?

14 A. I was taking the information from them, and I would
15 tell them what they wanted to hear.

16 Q. I'm going to refer you to your deposition testimony of
17 July 10th, 2006, page 421.

18 MS. HARRIS: May I approach, your Honor?

19 THE COURT: Yes, you may.

20 MS. SCAPICCHIO: 1 or 2?

21 MS. HARRIS: 2.

22 MR. REILLY: What page?

23 MS. HARRIS: 421, to line 19 on 421.

24 Q. During the course of your being interviewed by the
25 detectives, I believe you said you thought you were telling

1 them what they wanted to hear. Can you read your answer?

2 A. "What it was, like yeah, however, how do I put this, I
3 knew I wasn't at the scene at the time of Tiffany's killing
4 and whatever I thought the cops was going to hear the truth
5 or no truth, it wasn't the truth, I started talking and
6 didn't know how to shut up."

7 Q. In other words, you lied to the police officers when
8 they were talking to you?

9 A. Uh-hum.

10 Q. Is that a yes?

11 A. Yes.

12 Q. As a part of it you made things up that you thought
13 would satisfy them?

14 A. I said things, yes.

15 Q. You said things, you made things up yourself?

16 A. Yes.

17 Q. And nobody, not Detective Callahan or anybody else,
18 came to you and said, Ricky Evans, we'd like you to come
19 into this case and lie for us?

20 A. Repeat that, please.

21 Q. Nobody came to you, Detective Callahan or anybody else,
22 and said, hey, Ricky Evans, we'd like you to come in and
23 lie for us in this case, did they?

24 A. I saw a homicide in front of me. A young kid --

25 Q. A young kid who could memorize all of it, go through

1 two cross-examinations, let me finish, please, two
2 cross-examinations, a direct examination by an assistant
3 district attorney in front of the Judge; is that what you
4 want this jury to believe?

5 A. Excuse me.

6 Q. Do you want this jury to believe that when you
7 testified in 1989, you were reciting something that had
8 been fed to you, it was a script?

9 A. I'm not sitting here to be believed, you know what I
10 mean, what I'm saying is that I would do anything to get by
11 at that time.

12 Q. If I could just have one moment.

13 MS. HARRIS: Your Honor, I have nothing
14 further.

15 THE COURT: Thank you. Anything further? Mr.
16 Roache.

17 MR. ROACHE: Thank you, your Honor.

18 CROSS-EXAMINATION

19 BY MR. ROACHE:

20 Q. Good morning, Mr. Evans.

21 A. Good morning.

22 Q. Good morning, ladies and gentlemen of the jury.

23 Mr. Evans, you're no stranger to the court system, are
24 you?

25 A. No, I'm not.

1 Q. You've been in court on many occasions, haven't you?

2 A. Yes, I have.

3 Q. And on many of those occasions, you have not been
4 truthful to the Court, have you?

5 A. Not many of them, no.

6 Q. Well, sir, when you gave aliases on arrests, and I
7 believe you gave three aliases back in 1988; is that
8 correct, sir?

9 A. It could have been. It could have been more.

10 Q. Okay. And I believe you testified that the aliases
11 that you gave you gave because you did not want either the
12 police or the Court to know your true name for fear of
13 going to jail?

14 A. No, when I testified is when the cops or the police
15 stopped me, I would give an alias so they wouldn't lock me
16 up.

17 Q. Okay. In 1988, you were given the names of was it
18 Raicky Griham?

19 A. Griham, Corey.

20 Q. Tyronne Corey?

21 A. Yes.

22 Q. And there was a third name, was there not, Wadsworth?

23 A. That's four.

24 Q. Four names?

25 A. Yes, four.

1 Q. Four names. So each time you were arrested you lied to
2 the police as to what your name was, correct?

3 A. Not each time, but if I could get away, sure.

4 Q. Okay. And then when you were arrested, sir, you were
5 brought to court, and you didn't tell the probation officer
6 your true name, did you?

7 A. If I went to court, I got fingerprinted. They did know
8 who I was.

9 Q. Well, sir, sometimes in small cases like trespassing
10 cases, you would not be fingerprinted, would you?

11 A. If I could turn back some of the --

12 Q. Could you answer the question, sir. Let me rephrase
13 it. There are times when you were arrested that you were
14 not fingerprinted or photographed by the police?

15 A. Yes.

16 Q. That's correct?

17 A. Correct.

18 Q. Okay. So every time that you are arrested, you're not
19 fingerprinted and photographed, correct?

20 A. I wasn't taking a chance.

21 Q. Well, sir, you gave four false names to the police,
22 correct?

23 A. Correct.

24 Q. And you gave four false names to the Court; isn't that
25 correct?

1 A. I gave them to the police, the police. The Court knew
2 who I was.

3 Q. Well, when you went to the court, sir, on the docket
4 sheets that were shown to you, Exhibits 2, 3 and 4 I
5 believe they are, they were not your true name on those
6 sheets, were they?

7 A. No.

8 Q. We had Tyronne Corey, which is Exhibit No. 3,
9 Raicky Griham, Exhibit No. 5, and Tyronne Bickford, Exhibit
10 No. 4. Do you recall those names, sir?

11 A. Yes.

12 Q. Okay. And these appear on the official court
13 documents, and you're trying to tell this jury that the
14 Court knew your name?

15 MS. SCAPICCHIO: Objection. He didn't say
16 that.

17 THE COURT: Overruled.

18 A. Could you repeat that question, please?

19 Q. You're telling the members of this jury that at the
20 time that these documents were prepared, the Court knew
21 your name?

22 A. I didn't care if the Court knew my name or not, as long
23 as I didn't go to jail.

24 Q. You didn't care if the Court knew your true name?

25 A. No.

1 Q. You didn't care if the Judge sitting on the bench knew
2 your true name?

3 A. As long as I walked out of court.

4 Q. As long as you walked out of court?

5 A. Yes.

6 Q. So you lied at that time, didn't you, sir, about your
7 name during each of these three occasions?

8 A. I lied about a lot of things.

9 Q. You lied about a lot of things?

10 A. Yes.

11 Q. Okay. But you're not lying today?

12 A. No, I'm not.

13 Q. And you didn't lie last Thursday?

14 A. No, I didn't.

15 Q. Okay. Now, I know that my sister went through each of
16 these Court documents, and I don't want to spend any more
17 time than necessary going through these court documents,
18 however, sir, Exhibit No. 3 --

19 THE COURT: On the document camera.

20 Q. Sir, on Exhibit No. 3, this is the docket sheet for the
21 Roxbury District Court, and it says for the date of offense
22 right there, 12-13-88. Do you see that, sir?

23 A. 12-13, yes.

24 Q. And it says place of offense, 118 Elm Hill Ave. Do you
25 see that, sir?

1 A. Yes.

2 Q. Okay. Then there are various charges, A, B and C, the
3 first charge being disorderly person. Do you see that,
4 sir?

5 A. Yes.

6 Q. And the second charge is trespassing at 118 Elm Hill
7 Ave.?

8 A. Yes.

9 Q. Okay. This offense occurred on December 13th, 1988; is
10 that correct, sir?

11 A. Yes.

12 Q. And you were arrested by the Boston Police for
13 trespassing at 118 Elm Hill Ave. on December 13th, 1988?

14 A. Yes.

15 Q. And you gave the police the name Tyronne Corey?

16 A. Yes.

17 Q. Okay. And coincidentally the night you were shot was
18 three days later; is that so, sir, on December 16th,
19 1988?

20 A. Three days later, on the 17th?

21 Q. It was the 17th, okay. So it was four days later?

22 A. Three.

23 Q. Correct?

24 A. You said the 17th, it's three days later.

25 Q. Okay. Well, it was just a matter of few days later

1 that you were shot after this arrest?

2 A. You could say that, yes.

3 Q. And when you were taken by these gunmen, you were in
4 the hallway at 118 Elm Hill Ave., weren't you?

5 A. Yes.

6 Q. And you had a stay away order from the Court to stay
7 away from 118 Elm Hill Ave., didn't you?

8 MS. SCAPICCHIO: Objection, your Honor.

9 THE COURT: I'll allow a few more questions. I'm
10 not sure where this is going. Go on.

11 A. Yes.

12 Q. You were not supposed to be at 118 Elm Hill Ave., were
13 you?

14 A. No.

15 Q. And you violated that Court Order, didn't you, sir,
16 being on Elm Hill Ave. on the night that you were shot at
17 118?

18 A. Yes.

19 Q. Because the second charge is trespassing, correct?

20 A. Yes.

21 Q. Okay. And the third charge is illegal possession of a
22 Class B substance; do you see that, sir?

23 A. Yes.

24 Q. And for the jury's edification, what is a Class B
25 substance?

1 MS. SCAPICCHIO: Objection, your Honor.

2 THE COURT: Sustained.

3 Q. Well, is it --

4 THE COURT: No, no, sustained. Is this a
5 conviction to be used for cross-examination in the
6 appropriate manner, or is this just a charge?

7 MR. ROACHE: Well, your Honor, I'm going to get
8 into what he has admitted to in the past.

9 THE COURT: If this is not in the form of a
10 conviction, it's inadmissible. The prior questioning with
11 respect to an order is a different issue.

12 Q. And, sir, you were appointed counsel, were you not, on
13 December 13th or 14th by the name of Richard Smith?

14 A. I don't remember his name.

15 Q. Okay. Well, when you went to court in December of
16 1988, were you appointed counsel?

17 A. I don't recall.

18 Q. Now, you went to Court the following day, correct,
19 December 14th, 1988?

20 A. Yes.

21 Q. And do you see a notice of appearance by an attorney
22 that appears to be Samuel High?

23 A. I see a signature, yes.

24 Q. Did you hire Samuel High?

25 A. No.

1 Q. So the Court appointed Mr. High to represent you; is
2 that correct?

3 A. Must be because I didn't pay for him.

4 Q. You didn't pay for him?

5 A. No.

6 Q. Now, when a person -- when you were arrested and you go
7 to court the next day, you report to the probation
8 department, correct?

9 MS. SCAPICCHIO: Objection, your Honor.

10 THE COURT: Overruled.

11 Q. You report to the probation department; is that
12 correct?

13 A. Repeat that, please.

14 Q. When you're arrested for a crime such as what occurred
15 on December 13th, 1988, you are brought to the court the
16 following day for what we call an arraignment, correct?

17 A. Correct.

18 Q. Okay. And before you appear before a Judge, you are
19 interviewed by the probation department to determine
20 whether or not you qualify for an attorney?

21 A. I guess so, but I don't remember it.

22 Q. You don't remember that. In any event, sir, you were
23 appointed counsel in this case?

24 A. Yes.

25 Q. And you were appointed counsel because the Court made a

1 determination based upon the representations that you get
2 given to the probation department that you didn't have any
3 money to afford an attorney; isn't that correct?

4 MS. SCAPICCHIO: Objection, your Honor.

5 THE COURT: Keep going. Go on.

6 Q. Isn't that correct?

7 A. Correct.

8 Q. Okay. Now, I believe you testified earlier that in
9 1988, you were working?

10 A. Correct. It was '88, '89, correct.

11 Q. You were working?

12 A. Yes.

13 Q. And you were hustling on the streets?

14 A. Correct.

15 Q. You were selling drugs?

16 A. Yes.

17 Q. Okay. So you had money, didn't you?

18 MS. SCAPICCHIO: Objection.

19 THE COURT: Sustained.

20 Q. Well, sir, you had income coming in in 1988, didn't
21 you?

22 MS. SCAPICCHIO: Objection. What's the
23 relevance?

24 THE COURT: Overruled.

25 Q. You had income coming in?

1 A. Yes.

2 Q. Okay. And yet you told the probation officer you could
3 not afford an attorney?

4 MS. SCAPICCHIO: Objection. He never said
5 that.

6 MR. ROACHE: You know, this is
7 cross-examination.

8 THE COURT: No, I understand. Do you have
9 somewhere an indication that he said to the probation
10 officer that he could not afford an attorney?

11 MR. ROACHE: Your Honor, I don't have any
12 personal.

13 THE COURT: Then the objection is sustained. Go
14 on. The objection is sustained. Next question.

15 MR. ROACHE: Thank you.

16 Q. Now, you had an attorney appointed for you, correct?

17 A. Correct.

18 Q. Okay. And on each of the occasions that you appeared
19 in court, you had a court-appointed attorney?

20 A. Most likely, yes.

21 Q. In 1988, 1989?

22 A. Most likely, yes.

23 Q. Now, you testified earlier that you gave false names
24 because you didn't want to go to jail; is that correct?

25 A. Correct.

1 Q. And, as a matter of fact, you did spend some time in
2 jail back in the '90s, correct?

3 A. Correct.

4 Q. You spent about three months in jail?

5 A. Uh-hum.

6 Q. And that was for receiving a stolen motor vehicle?

7 A. Correct, yes.

8 Q. So you knew that if you're convicted of a crime, you
9 could spend some time in jail?

10 MS. SCAPICCHIO: Objection, your Honor.

11 THE COURT: Overruled.

12 A. Correct.

13 Q. Okay. And that's one of the reasons why you gave false
14 names to the police, to the Court, to the Judge in '88 or
15 '89 so you would not have to spend any time in jail?

16 A. Back in the '90s, I had went to Dorchester Court to
17 clear one up that I had. That's how I ended up getting
18 locked up.

19 Q. You didn't want to get locked up?

20 A. I said that's why I went to Dorchester Court, to clear
21 a warrant up.

22 Q. Yet you can come in here to tell this jury that in 1989
23 in October when you testified at the trial of Commonwealth
24 vs. Shawn Drumgold that you risked life in prison,
25 punishment by life in imprisonment for committing

1 perjury?

2 MS. SCAPICCHIO: Objection.

3 THE COURT: Overruled.

4 Q. Is that what you're telling this jury?

5 A. Back then, back then, I would have done anything. I
6 wasn't in my right mind. I'm living on the streets. I'm
7 doing what I can. I'm trying to make a living the way I
8 could, so you have somebody that you look up to, and I did
9 what they wanted me to do, and I did it.

10 Q. Sir, you did not want to go to jail for three months or
11 six months for giving false names; isn't that correct?

12 A. Correct.

13 Q. But you were willing or at least according to your
14 testimony today is that were you willing to face the
15 possibility of spending life imprisonment for committing
16 perjury in a capital offense?

17 A. That was over 21 years ago. I would have done
18 anything.

19 Q. You would have done anything?

20 A. Yes.

21 Q. So you would have done anything to avoid jail for three
22 or six months, but you were willing to commit perjury and
23 facing a life imprisonment?

24 A. I was getting whatever I wanted.

25 Q. I see, sir. Now, to put this matter in a little bit of

1 perspective, if I may, do you recall when Tiffany Moore was
2 shot?

3 A. Yes.

4 Q. And when was that?

5 A. Back in '88, '89.

6 Q. Well, was it in 1988 or 1989?

7 A. 9.

8 Q. I'm sorry?

9 A. 9.

10 Q. 1989?

11 A. Uh-hum.

12 Q. When were you shot, sir?

13 A. I don't remember the date that it actually happened.

14 Q. You can't recall the date on which your cousin was shot
15 and you were almost killed yourself?

16 A. I tried to forget about all that. I tried to put all
17 that in the past. I tried not to think about it.

18 Q. Was it in 1988 or 1989?

19 A. It was '88, I think.

20 Q. Okay. So, according to your testimony, Tiffany Moore
21 was shot and killed after you were shot?

22 A. I don't remember.

23 Q. You don't remember?

24 A. No, I do not.

25 Q. Well, sir, if I would suggest to you that Ms. Moore was

1 shot in August of 1988?

2 A. Okay.

3 Q. Would that refresh your memory?

4 A. No.

5 Q. Doesn't refresh your memory?

6 A. No, it does not.

7 Q. Okay. By the way, is your memory today better than it
8 was back in 1989 when you testified in court in the case of
9 Commonwealth vs. Shawn Drumgold?

10 A. My memory is that I remember the things that happened
11 with me and my cousin because it's a fact, it actually
12 happened, you know, but the things about the Tiffany Moore
13 murder, about Tiffany Moore was fed to me, what I put in
14 myself, I don't remember all that because everything back
15 then was fed to me or I lied about it. It was like
16 combining both. I don't remember it.

17 Q. We'll get to you, everything was fed to you?

18 A. I didn't say everything was fed to me.

19 Q. Well, sir, Tiffany Moore was shot in August of 1988,
20 and let's back up a little bit. Before 1988, you were a
21 street person, correct?

22 A. Correct.

23 Q. And before August of 1988, you were a street person?

24 A. I was around.

25 Q. You were around?

1 A. Yes.

2 Q. And you were how old in 1988?

3 A. 18, 19.

4 Q. Okay. 18 or 19 years of age, and you had lived in
5 Grove Hall area?

6 A. Grove Hall area.

7 Q. That was depicted on the map, you had lived there since
8 you were five years old, isn't that so, sir?

9 A. I didn't live at 118, I lived at 63 for a number of
10 years.

11 Q. You lived there in the Grove Hall area from age 5 to
12 age 19 when Tiffany Moore was shot?

13 A. There was quite a few years I lived in the area, yes.

14 Q. I'm sorry, I didn't hear you.

15 A. It was quite a few years I lived in the area, yes.

16 Q. And you considered yourself to be a street kid?

17 A. Back then, yes.

18 Q. And you lived at several different addresses,
19 correct?

20 A. I stayed where I could lay my head.

21 Q. Okay. For the jury's edification and for my
22 edification, would you please explain to us or tell us what
23 addresses you lived from age 5 to age 19.

24 A. Age 5 to 19, 63.

25 Q. 63 what, sir?

1 A. Elm Hill.

2 Q. Elm Hill Ave.?

3 A. Yes, 118. This is not -- I lived at 63.

4 Q. What ages did you live at 63 Elm Hill Ave.?

5 A. I don't remember. I don't remember the time I left
6 63.

7 Q. Well, when you moved to Boston, you moved to Boston at
8 age 5 from Mississippi; is that correct?

9 A. When I moved to Boston I was young.

10 Q. Age 5?

11 A. I was young.

12 Q. Okay. That was from Mississippi?

13 A. Yes.

14 Q. Okay. I assumed at age 5 you were going to school
15 somewhere?

16 A. Yes.

17 Q. Where were you living at age 5?

18 A. If I was in Boston, had to be Elm Hill.

19 Q. Okay. What number?

20 A. 63.

21 Q. 63 Elm Hill Ave. And with whom were you living at 63
22 Elm Hill Ave.?

23 A. My stepmother.

24 Q. Your stepmother?

25 A. Uh-hum.

1 Q. Her name is what, sir?

2 A. Juanita Griham.

3 Q. Juanita Griham. Were you living with anybody else?

4 A. My brothers, stepbrothers, stepsisters.

5 Q. And you had 13 siblings, correct?

6 A. Yes.

7 Q. And they all live at 63 Elm Hill Ave.?

8 A. No.

9 Q. Did they all live in the Grove Hall area?

10 A. No.

11 Q. No?

12 A. No.

13 Q. Okay. From 63 Elm Hill Ave., sir, what was your next
14 address?

15 A. Stayed at 63. I mean, moved around a little bit in the
16 area.

17 Q. What do you mean by that, sir?

18 A. I'm a street person. After --

19 Q. No, from age 5, age 5, for how many years did you live
20 at 63 Elm Hill Ave.?

21 A. I lived at 63, I went back to Mississippi, came back to
22 Boston, stayed back at 63.

23 Q. Where did you move back to Boston, sir, from
24 Mississippi?

25 A. I don't remember.

1 Q. How old were you?

2 A. I was 10, if that.

3 Q. Age 10?

4 A. Yes.

5 Q. Did you ever say that before in any forum at all that
6 you had returned to Mississippi?

7 A. It never came up. The question never came up.

8 Q. It never came up?

9 A. No.

10 Q. Do you recall testifying at another hearing that you
11 lived in the Grove Hall area from age 5 to age 19 before
12 Tiffany Moore got killed?

13 A. I lived in the Grove Hall area for a while. I mean, I
14 lived in the Grove Hall area for a while.

15 Q. That's not my question, sir, do you recall testifying
16 at another hearing that you had lived in the Grove Hall
17 area from age 5 to age 19?

18 A. I don't recall that, no.

19 Q. You never testified before, sir, that you had returned
20 to Mississippi for a period of time, had you?

21 A. I went to Mississippi and came back, go to visit and
22 come back, whenever I went to Mississippi and I came back,
23 I went back to Elm Hill with my stepbrother.

24 Q. When you went to Mississippi, was it a visit or did you
25 stay there for a length of time?

1 MS. SCAPICCHIO: Objection, Judge. How is this
2 relevant? He was 5.

3 MR. ROACHE: He was not 5, your Honor.

4 THE COURT: Good point. I'll give you a few more
5 questions, but I'm mystified.

6 MR. ROACHE: Okay.

7 Q. What was the next address you lived, sir, after 63 Elm
8 Hill Ave.?

9 A. After we got evicted from 63, that's when I started to
10 move around the neighborhood.

11 Q. What year were you evicted from 63?

12 A. I don't remember. I don't remember the year. As a
13 matter of fact, it was my stepmother, it wasn't me. I was
14 living with her.

15 Q. Okay. And what other addresses did you live at?

16 A. I don't remember every address I used to live at. I
17 used to give -- I used to just live around, I mean,
18 wherever, but if I needed an address, I used an address.

19 Q. Okay. At what age were you, sir, when you were evicted
20 from 63 Elm Hill Ave.?

21 A. I don't know. My stepmother was living there. I was
22 living with her.

23 Q. You don't know what age that was?

24 A. I don't.

25 Q. Were you a teenager?

1 A. Had to be.

2 Q. Okay. And from 63 Elm Hill Ave., your mother went to
3 live with your brother?

4 A. Stepmother went to live with my brother, yes.

5 Q. I'm sorry, your stepmother?

6 A. Yes.

7 Q. She went to live with your brother; is that correct?

8 A. Uh-hum.

9 Q. And your brother is Roy?

10 A. Yes.

11 Q. And where was he living?

12 A. Trull Street.

13 Q. I'm sorry?

14 A. Trull Street.

15 Q. Trull Street?

16 A. Yes.

17 Q. Roy never lived on Charles Street, did he?

18 A. Trull. My aunt lived on Charles Street.

19 Q. You never lived on Charles Street, did you?

20 A. My aunt lived on Charles Street.

21 Q. I'm sorry.

22 A. My aunt lived on Charles Street. I would use it as an
23 address.

24 Q. Your aunt lived on Charles Street, but you didn't live
25 there?

1 A. Exactly.

2 Q. You lied about that, too?

3 A. No, you can't say I lived because if I used an address,
4 I had mail coming somewhere, I couldn't give in the Grove
5 Hall area where I was at, so I would do an address. As
6 long as the person was a relative to me, I'd use an
7 address.

8 Q. So you'd use any relatives' address regardless or not
9 whether you were living there?

10 A. I would tell them that I'm going to use an address.
11 "Yeah, you can go ahead and use it," so I used it.

12 Q. Okay. So I understand correctly, Charles Street you
13 never lived at, but you used that as an address when you
14 felt it necessary, isn't that correct, sir?

15 A. When it was necessary, yes.

16 Q. But you had never lived there, your aunt lived there,
17 your aunt?

18 A. Yes.

19 Q. And your brother lived at 3 Trull Street?

20 A. Actually it was 6 Charles Street that my aunt lived at.
21 My brother lived at Trull Street, not 3 Charles Street.

22 Q. Just so the court reporter can understand, Trull Street
23 is T-r-u-l-l, correct?

24 A. Yes.

25 MS. SCAPICCHIO: Judge, I'm going to object. I

1 still can't find the relevance. We don't know what year
2 this is.

3 THE COURT: Two more questions, Mr. Roache, then
4 that's it for this line of questioning.

5 MR. ROACHE: Your Honor, it's very relevant as to
6 where he was picked up with the police.

7 THE COURT: Where he was when he was 5 is
8 relevant to when he was picked up by the police?

9 MR. ROACHE: No, your Honor, I'm going to get the
10 address.

11 THE COURT: Two more questions. Go on.

12 Q. Now, at some point, sir, you lived at Chaney Street?

13 A. Yes. I didn't live there. It was a girl that I used
14 to date that lived there so I stayed with her a few
15 nights.

16 Q. And that was 40 Chaney Street?

17 A. I guess it was.

18 Q. And when did you live at 40 Chaney Street?

19 A. I don't have no idea. I don't remember the exact time
20 I lived at a place.

21 Q. Do you remember testifying that Detective Callahan
22 visited you at 40 Chaney Street?

23 A. I don't recall.

24 Q. You don't recall that?

25 A. No.

1 Q. Now, I believe you testified earlier in this trial that
2 you had many girlfriends, correct?

3 A. I had enough.

4 Q. I'm sorry?

5 A. I had enough.

6 Q. You had -- I can't hear you.

7 A. I had enough.

8 Q. You had enough?

9 A. Uh-hum.

10 Q. Did you stay with the other girlfriends?

11 A. No, not all of them.

12 Q. I can't hear you, sir.

13 A. Not all of them. Not all of them.

14 Q. Not all of them. Okay. Do you recall the addresses
15 that you stayed at?

16 A. No.

17 MS. SCAPICCHIO: Objection, your Honor.

18 THE COURT: Well, the answer is no. Go on, next
19 question.

20 MR. ROACHE: Thank you.

21 Q. Now, 3 Trull Street is where your brother was living,
22 and that's where Detective Callahan and three other
23 detectives came to bring you to the Howard Johnson's,
24 correct?

25 A. Two other detectives.

1 Q. Two other detectives?

2 A. Yes.

3 Q. Do you recall testifying at an earlier hearing that
4 there were a total of four detectives?

5 A. I don't remember.

6 Q. You don't remember?

7 A. No.

8 Q. Okay. Do you recall one was stationed at the corner of
9 Hancock Street and Bowdoin Street?

10 A. Excuse me.

11 Q. Do you recall that there was a detective stationed at
12 the corner of Hancock Street and Bowdoin Street?

13 A. Bowdoin is not near there, Hancock Street and
14 Charles.

15 Q. Hancock runs into Bowdoin Street, sir, doesn't it?

16 A. It was by Upham's Corner, it wasn't by --

17 Q. Did you testify at an earlier hearing that you saw a
18 detective at the corner of Hancock and Bowdoin?

19 A. Hancock Street and Trull Street.

20 Q. Hancock and Trull Street?

21 A. Hancock and Trull Street.

22 Q. I see. Now, you have testified in this case on several
23 different occasions, correct?

24 A. Correct.

25 Q. In fact, you have given statements involving this case,

1 and on your case on many occasions -- when I say your case,
2 I mean respectfully the murder of your cousin Roy who was
3 also known as Willie, correct?

4 A. Correct.

5 Q. And your shooting?

6 A. Correct.

7 Q. Okay. Now, you gave a statement to the police
8 regarding the shooting of your brother or the murder of
9 your cousin, I should say, and your shooting in January of
10 '89, correct?

11 A. I don't recall.

12 Q. You don't recall?

13 A. No.

14 Q. Okay. And you testified at a grand jury involving the
15 killing of your cousin and your shooting in May of '89;
16 isn't that correct, sir?

17 A. I don't recall when I had that meeting.

18 Q. Well, you were shown the grand jury testimony by
19 Ms. Harris, were you not, earlier today?

20 A. Yes.

21 Q. And that doesn't refresh your memory as to your
22 testifying in May of '89?

23 MS. SCAPICCHIO: Just this is asked and
24 answered.

25 THE COURT: Sustained.

1 Q. And in June of 1989, you went to the district
2 attorney's office and gave a statement to Assistant D.A.
3 Phil Beauchesne who was prosecuting the case against
4 Shawn Drumgold, correct?

5 MS. SCAPICCHIO: Objection, asked and answered.

6 A. Not that I recall.

7 MR. ROACHE: Your Honor, I'm putting this all in
8 context.

9 THE COURT: All right.

10 Q. Is that correct?

11 A. Not that I recall. I don't recall.

12 Q. You don't recall that?

13 A. No.

14 Q. Okay. In August, on or about August 6th of '89, you
15 gave a taped statement to Detective Callahan that was shown
16 before this jury; is that correct?

17 A. Correct.

18 Q. Okay. On October 4th, 1989 -- are some four months
19 later than June -- you testified at the trial of
20 Commonwealth vs. Shawn Drumgold; do you recall that?

21 A. I don't remember the time.

22 Q. But you do remember giving testimony?

23 A. Actually it's kind of blurred.

24 Q. It's kind of blurred?

25 A. Yes.

1 Q. And then, sir, there was a motion for new trial some
2 time in 2003 in which you gave testimony?

3 A. Correct.

4 Q. Okay. And in June of 2006 and in July of 2006, you
5 gave sworn testimony at depositions, correct?

6 A. Correct.

7 Q. And in March, '08, March 5th, 6th and 7th of '08 at
8 another hearing, you also gave sworn testimony?

9 A. Correct.

10 Q. And then you gave testimony last Thursday and then
11 again today?

12 A. Correct.

13 Q. Okay. And each time that you testified in court, you
14 testified -- strike that. When you testified in August of
15 1989 at the trial of Commonwealth vs. Shawn Drumgold, you
16 testified under oath; is that correct?

17 A. Correct.

18 Q. And you testified before a jury of 12, correct?

19 A. Correct.

20 Q. And there was a Judge in the courtroom at that time?

21 A. Correct.

22 Q. Do you recall that?

23 A. I don't recall it, but, yes, I guess so.

24 Q. Okay. When you testified at the prior court hearing, a
25 prior hearing, you testified in this courtroom?

1 A. The last time, yes.

2 Q. Okay. Before her Honor?

3 A. Yes.

4 Q. And before another panel of juries?

5 MS. SCAPICCHIO: Objection, your Honor.

6 THE COURT: Sustained.

7 MS. SCAPICCHIO: Move to strike.

8 THE COURT: That will be struck.

9 MR. ROACHE: Okay.

10 MS. SCAPICCHIO: Your Honor, can we be seen at
11 sidebar?

12 MS. SCAPICCHIO: Yes.

13 (THE FOLLOWING OCCURRED AT SIDEBAR:)

14 MS. SCAPICCHIO: Judge, I specifically asked how
15 the Court wanted us to refer to that prior trial, and I
16 remember this Court saying it would be referred to as a
17 prior hearing and that this jury would never find out there
18 was a prior trial. He specifically brought it up.

19 THE COURT: Are you moving for a mistrial?

20 MS. SCAPICCHIO: No, your Honor, I'm not.

21 MR. ROACHE: Your Honor, I referred to it.

22 THE COURT: You said another panel of juries.

23 This jury doesn't know the difference between a hearing and
24 a trial.

25 THE COURT: I don't want to deal with whether

1 this jury knows a difference. This is not the way it was
2 supposed to be done. Unless you want a curative
3 instruction which would highlight it, we'll talk about it
4 as a prior hearing, that's all.

5 MS. SCAPICCHIO: Thank you.

6 THE COURT: You don't want a curative
7 instruction?

8 MS. SCAPICCHIO: Not at this time.

9 (SIDEBAR CONFERENCE WAS CONCLUDED)

10 Q. Now, Mr. Evans, when you were shot in December of 1988,
11 you were taken to the hospital, correct?

12 A. Correct.

13 Q. And you stayed in the hospital for one or two days?

14 A. One day.

15 Q. Correct?

16 A. One day. Overnight.

17 Q. You stayed overnight?

18 A. Yes.

19 Q. But while you were in a hospital you were visited by
20 the police, were you not?

21 A. I think I was, yes.

22 Q. And do you recall the names of the officers who visited
23 you at the hospital?

24 A. No, I don't recall the names. No, I do not.

25 Q. And did the officers who visited you at the hospital

1 ask you any questions?

2 A. I think they asked me on who shot me.

3 Q. I'm sorry.

4 A. I think they asked me who shot me and who shot Roy.

5 Q. Who shot Roy?

6 A. Yes.

7 Q. And were you able to tell them?

8 A. Yes.

9 Q. And you were able to tell them because you knew the
10 name of the person who shot you?

11 A. I didn't know him. I seen him on the street.

12 Q. I'm sorry.

13 A. I didn't know him, I seen him on the street.

14 Q. You had seen him on the street, in fact, you had seen
15 not only the person who had shot you but you had seen the
16 other two individuals before that night?

17 A. I don't remember seeing the other two. I don't recall
18 seeing the other two. I could have seen them. I could
19 have seen them, but I don't remember.

20 Q. Well, Mr. Evans, on the night that you were shot, you
21 knew the name of the person who was the shooter, did you
22 not?

23 A. I knew his street name.

24 Q. You knew his street name?

25 A. Yes.

1 Q. And you knew his street name as Chilly?

2 A. Yes.

3 Q. And is that what you told the police?

4 A. I could have, yes.

5 Q. That you knew his name was Chilly?

6 A. I think I did, yes.

7 Q. Okay. Now, do you recall on December 18th, Sunday,
8 that you gave a tape recorded statement to the police
9 regarding the incident that occurred on December 16th?

10 A. No, I do not.

11 Q. Do you recall being visited at 40 Chaney Street by two
12 detectives by the name of Ahearn and Timlin?

13 A. I think I was visited, but I don't recall the names of
14 them.

15 Q. You think what?

16 A. I don't recall the names, but I think I was visited by
17 them, yes.

18 Q. And do you recall giving a taped statement?

19 A. No, I don't.

20 MR. ROACHE: May I approach the witness, your
21 Honor?

22 THE COURT: Yes, you may.

23 Q. I show you this document, sir. Is there a date on that
24 document?

25 A. December 18, 1988.

1 Q. Okay. Is there a location?

2 A. 40 Chaney Street, Apartment 6.

3 Q. And is there a title to the document?

4 A. The document's interviewer is Detective Robert Ahearn
5 and Detective Robert Timlin, Boston Police Department,
6 Homicide.

7 Q. What is the nature of the --

8 A. Statement of Ricky Evans.

9 Q. Statement of Ricky Evans?

10 A. Yes.

11 Q. Do you recall looking at this document, sir, as to
12 whether or not that statement was tape recorded?

13 A. It could have been. It could have been, but I don't
14 remember.

15 Q. Okay. Does this appear to be in a question and answer
16 format?

17 A. Can I see it?

18 MS. SCAPICCHIO: Judge, I'm going to object. I
19 can't understand the relevance of the statement he gave him
20 in the Treas Carter case.

21 THE COURT: Again, a few more questions. Wait,
22 Mr. Evans, you can't answer until I've ruled. A few more
23 questions, then we'll figure this out.

24 Q. Do you recall giving a statement?

25 A. I don't recall it.

1 Q. Does this appear to be in a question and answer
2 format?

3 A. It has my name on it, yes.

4 Q. Does it appear to be in a question and answer format?

5 A. Yes.

6 Q. Okay. When you gave the officers the information on
7 December 18th, you were cooperating with the Boston Police
8 regarding the killing of your cousin and the shooting of
9 you, correct?

10 MS. SCAPICCHIO: Your Honor, it's been asked and
11 answered.

12 A. Correct.

13 THE COURT: Overruled. We'll give this a few
14 more minutes.

15 Q. And this was at 40 Chaney Street, correct?

16 A. I don't remember giving the statement, but, yes,
17 40 Chaney Street.

18 Q. Okay. And do you recall that on January 9th, 1989,
19 Detective Callahan along with Detective Ahearn went to
20 40 Chaney Street and conducted a second interview of you
21 concerning the Willie Evans murder and your shooting?

22 A. No.

23 Q. You testified earlier that you recall Detective
24 Callahan showing you some photographs, correct?

25 A. Correct.

1 Q. Were you at 40 Chaney Street, sir, when he showed you
2 those photographs?

3 A. I think I was.

4 Q. Okay. And do you recall about what month or year it
5 was that you were shown the photographs?

6 A. No.

7 Q. Do you recall that was January 9th, 1989?

8 A. I don't recall the date.

9 Q. And do you recall seeing 13 photographs?

10 A. I think it was 6. I don't think it was 13.

11 Q. You think it was 6?

12 A. I think it was. I'm not sure.

13 Q. Were you asked to pick out one or more of the
14 assailants that killed your cousin and wounded you?

15 A. I think so.

16 Q. Okay. And you picked out someone, didn't you?

17 A. Yes.

18 Q. And that person was Treas Carter?

19 A. Chilly.

20 Q. Chilly?

21 A. Yes.

22 Q. And you were able to identify him to the
23 Boston Police?

24 A. Correct.

25 Q. Okay. And as a result of your identification of

1 Treas Carter, did the police inform you that they would
2 seek a warrant for his arrest?

3 A. I don't remember what the conversation was about.

4 Q. Okay. But at that point everything that you were
5 telling the police concerning your shooting and the killing
6 of your brother was accurate?

7 A. Yes, correct.

8 Q. And when you testified before the grand jury in May of
9 1989, you testified truthfully and accurately concerning
10 the shooting of yourself and the killing of your brother?

11 A. Cousin.

12 Q. Of your cousin, I'm sorry?

13 A. Yes.

14 Q. So, at that point in time, everything that you had told
15 the police, everything that you had told the district
16 attorney's office and everything that you told the members
17 of the grand jury was truthful?

18 A. About me and Roy's killing, yes.

19 Q. So there was no reason at that point in time as of May
20 of 1989 for Detective Callahan or for any other member of
21 the Suffolk County District Attorney's Office or the
22 Boston Police to doubt your credibility?

23 MS. SCAPICCHIO: Objection. As to what?

24 THE COURT: Sustained. Sustained.

25 Q. Now, prior to your testimony before the grand jury in

1 May of 1989, you and Detective Callahan had not discussed
2 Tiffany Moore at all, had you?

3 A. I don't recall.

4 Q. As a matter of fact, the first time that you were asked
5 about Tiffany Moore by Detective Callahan was in June of
6 1989 after you had testified at the grand jury involving
7 your shooting and the killing of your cousin?

8 A. I don't recall when we had spoke about it.

9 Q. Okay. And he knew that you were a street kid?

10 MS. SCAPICCHIO: Objection. As to what --

11 THE COURT: Sustained.

12 Q. You were a street kid living in Grove Hall; is that
13 correct?

14 A. I was living in the area when I could.

15 Q. Okay. And you hear a lot of things about what goes on
16 in the Grove Hall area, correct?

17 A. I hear my share, yes.

18 Q. Okay. And you knew that -- well, did Detective
19 Callahan tell you that he was investigating the shooting
20 and killing of Tiffany Moore?

21 A. I don't recall that.

22 Q. You don't recall that?

23 A. No.

24 Q. And do you recall Timothy Callahan asking you if you
25 heard anything or knew anything about the killing of

1 Tiffany Moore?

2 A. I don't recall.

3 Q. You don't recall?

4 A. No.

5 Q. As a matter of fact, your biological brother Roy, he
6 also lived in the area, correct?

7 A. He lived on Trull Street off of Hancock Street.

8 Q. I'm sorry.

9 A. He lived on Trull Street.

10 Q. Did you have a brother, sir, that was a member of the
11 Humboldt gang?

12 A. No.

13 MS. SCAPICCHIO: Objection, your Honor.

14 THE COURT: Sustained.

15 MR. ROACHE: Your Honor, may I be heard?

16 THE COURT: No.

17 Q. Did you testify earlier at another hearing that you had
18 a brother who was a member of the Humboldt gang?

19 A. I don't recall.

20 MS. SCAPICCHIO: Objection, your Honor.

21 THE COURT: Sustained. Go on.

22 Q. Now, you had heard in the area about the shooting of
23 Tiffany Moore, correct?

24 A. Correct.

25 Q. And it's your testimony before this jury that you had

1 told Detective Callahan that it wasn't Shawn Drumgold, the
2 rumor in the neighborhood was that it wasn't Shawn Drumgold
3 but it was Lug Taylor, Terrance Taylor?

4 A. No, I didn't testify to that.

5 Q. You didn't testify to that?

6 A. No.

7 Q. Well, you testified, sir, you said you heard in the
8 neighborhood the rumors in the neighborhood was that it was
9 Lug Taylor who committed the shooting?

10 A. I didn't say it was Lug Taylor, I said Theron Davis.

11 Q. I'm sorry, Theron Davis.

12 A. Yes.

13 Q. And that was rumored in the neighborhood?

14 A. Yes.

15 Q. Okay. And then it was your testimony that after that
16 statement, you were whisked away to the Howard Johnson's?

17 A. I don't recall when I was whisked away.

18 Q. Well, sir, you don't remember when you went to the
19 Howard Johnson's, do you?

20 A. Excuse me?

21 Q. You don't remember when you went to the
22 Howard Johnson's?

23 A. Yes. Yes, I do. I just don't recall the date I was
24 taken there.

25 Q. You don't recall the date you were taken there?

1 A. No.

2 Q. Okay. But you remember going there?

3 A. Yes.

4 Q. Okay. Do you know what information -- or strike that.
5 Did Detective Callahan ever tell you any information about
6 any other witnesses who may have maybe called to testify in
7 the case against Shawn Drumgold?

8 A. Not that I recall.

9 Q. Never mentioned the word that the name
10 Vantrell McPherson?

11 MS. SCAPICCHIO: Objection, your Honor.

12 THE COURT: Overruled.

13 A. No.

14 Q. Never mentioned the word the name Tracie Peaks?

15 A. He could have. I don't remember all those names.

16 Q. Never mentioned Mary Alexander?

17 A. Could have, but I didn't know everybody, I didn't know
18 anybody by the name in the area.

19 Q. Never mentioned the name Kevin Johnson?

20 A. Kevin Johnson, could have, but I don't remember.

21 Q. Okay. Now, Ms. Harris asked you, and I believe she
22 showed you your prior testimony that you did not go to the
23 Howard Johnson's or you were not staying at the
24 Howard Johnson's on the day of your birthday, August 13th,
25 correct?

1 A. I told her I don't remember.

2 Q. But you testified that you were at the Howard Johnson's
3 for at least eight months?

4 A. At least eight months.

5 Q. At least eight months?

6 A. Yes.

7 Q. So, if you were not there on your birthday in August,
8 that means eight months would have brought you into 1989,
9 some time in April of 1989 you stayed at the
10 Howard Johnson's?

11 A. I said I don't remember going there. I don't remember
12 what date it was.

13 Q. I see. When you went to the Howard Johnson's, sir, do
14 you remember testifying at an earlier hearing that the
15 police came to 3 Trull Street and took you to the
16 Howard Johnson's?

17 A. Yes.

18 MS. SCAPICCHIO: Objection, asked and answered.

19 THE COURT: Yes, sustained. Go on.

20 Q. Well, sir, did the police come to 3 Trull Street on
21 September 12th, 1989?

22 A. I don't know what day it was, I just remember them
23 coming to get me.

24 Q. Now, September 12th, 1989 is approximately three weeks
25 before October 4th, 1989; would you agree with me?

1 A. Would you repeat that, please.

2 Q. September 12th, 1989 is approximately three weeks
3 before October 4th, 1989?

4 A. You could say.

5 Q. Would you agree with that statement?

6 A. Yes.

7 Q. Okay. And that's the day on which you testified at the
8 murder trial of Commonwealth vs. Shawn Drumgold; isn't that
9 a fact?

10 A. It could be. I'm not sure of the date.

11 Q. Okay. So if the police had taken you to the
12 Howard Johnson's on September 12th, 1989 and you testified
13 on October 4th, 1989, that time frame was approximately
14 three weeks, correct?

15 MS. SCAPICCHIO: Objection, your Honor.

16 A. Correct.

17 THE COURT: Overruled.

18 A. Correct.

19 Q. Okay. And you testified earlier that after you had
20 finished testifying in the murder trial of Shawn Drumgold,
21 the police didn't come around anymore?

22 A. They didn't.

23 Q. They didn't?

24 A. No.

25 Q. You never heard from them again?

1 A. No. I was --

2 THE COURT: Wait. You don't have a question. Go
3 on.

4 Q. So if you were taken to the Howard Johnson's on
5 September 12th and you testified on October 4th, the police
6 didn't come and visit you at the Howard Johnson's weekly
7 for more than two or three times?

8 MS. SCAPICCHIO: Objection, your Honor. It
9 assumes facts not in evidence. He never said it was the
10 12th.

11 THE COURT: The objection is overruled. You can
12 clarify what you need to clarify on redirect. Go on,
13 counsel.

14 Q. The police never came more than two or three times to
15 the Howard Johnson's, did they?

16 A. Yes, they did.

17 Q. Well, you testified earlier that they came weekly or
18 biweekly?

19 A. They came whenever I would call or whenever they would
20 come downstairs and call for me.

21 Q. Okay. But if you were there three weeks, sir?

22 A. I said I wasn't sure around the time.

23 Q. If you were there three weeks, the police didn't come
24 more than three times before you testified at the case of
25 Commonwealth vs. Shawn Drumgold?

1 A. I testified that I did not know what day they had came
2 and picked me up from my brother's house.

3 Q. You don't know what day?

4 A. I don't remember the date.

5 Q. Do you know what time of year it was?

6 A. No, I don't remember the time of year.

7 Q. You don't even know what time of year it was?

8 A. No.

9 Q. Okay. And you don't know if it was as a result of
10 being questioned by a private investigator?

11 A. I don't remember the private investigator.

12 Q. You don't remember that either?

13 A. No.

14 Q. Now, you testified that while you were at the
15 Howard Johnson's, you were working?

16 A. Yes.

17 Q. Okay. So you had money?

18 A. Yes.

19 Q. So you didn't need any money because you had money, you
20 were living there for free?

21 A. Still I needed more money.

22 Q. You needed more money?

23 A. Uh-hum.

24 Q. So you called up Detective Callahan and said I need
25 money?

1 A. If I needed it, yes, if my paycheck wouldn't last,
2 yes.

3 Q. I see. You were getting all your meals for free and
4 you were living for free, correct?

5 A. Correct.

6 Q. Okay. And you would call Tim Callahan and say, hey,
7 come on over here, I need money?

8 A. No, I would call and ask him, I wouldn't demand
9 anything.

10 Q. Did you know Tim Callahan's work schedule?

11 A. No.

12 Q. How did you know to call him?

13 A. I had his card.

14 Q. You had his card?

15 A. Yes.

16 Q. Did you know his work schedule?

17 A. No, I did not.

18 Q. So you'd call, what, his business line, I assume?

19 A. I don't recall.

20 Q. You don't recall?

21 A. No. I just had his card.

22 Q. Okay. And he would come over at your call?

23 A. Yes, if I needed it.

24 Q. I see. Now, you testified that while at the
25 Howard Johnson's, you had conversations or you were present

1 during conversations that Detective Callahan was having
2 with Paul McDonough, Detective McDonough?

3 A. In the cafeteria, yes.

4 Q. You were present?

5 A. Yes.

6 Q. And you heard things like guns and a car?

7 A. Guns, car, it was quite a few things I overhear.

8 Q. Okay. But you heard no conversation about the clothing
9 that the assailants of Tiffany Moore were wearing?

10 A. I don't recall.

11 Q. Well, did you think that that would be an important
12 point that Detective Callahan, if he were feeding you
13 information, that he would want you to know?

14 MS. SCAPICCHIO: Objection.

15 THE COURT: Sustained.

16 Q. Well, sir, isn't it important when you identify an
17 assailant that you're able to identify the assailant and
18 what that assailant was wearing at the time that a crime
19 was committed?

20 MS. SCAPICCHIO: Objection.

21 THE COURT: Sustained.

22 Q. Did Detective Callahan ever give you or did you ever
23 overhear any conversation about any clothing that either
24 Shawn Drumgold or Terrance Taylor was wearing that night?

25 A. Like I testified, like I testified earlier, you know, I

1 was fed and I added some myself. I don't recall all
2 that.

3 Q. Okay. And when you gave the statement that this jury
4 saw on August the 6th that was tape recorded by Detective
5 Callahan, did Detective Callahan feed you all that
6 information on that statement?

7 A. Not all of it.

8 Q. Not all of it?

9 A. Not all of it.

10 Q. In effect, he fed you none of it, did he, sir?

11 A. Yes, he did.

12 Q. He did?

13 A. Yes.

14 Q. Did he feed you saying that you were at 118 Elm Hill
15 Ave.?

16 A. I don't recall.

17 Q. Did he feed you the information that he saw or you saw
18 Lug Taylor and Shawn Drumgold before the killing of
19 Tiffany Moore?

20 A. I don't recall all that.

21 Q. Did he tell you to say or did he feed you information
22 that Lug Taylor came up to Shawn Drumgold and said I know
23 where Mervin and Chaney are at?

24 A. Not that I recall.

25 Q. Did he feed you information, sir, that 45 minutes after

1 Lug Taylor and Shawn Drumgold left Elm Hill Ave. where you
2 and Willie were at that you saw them coming back 45 minutes
3 later in a white car?

4 A. I didn't know anything about the white car, I just put
5 the rest of it in myself.

6 Q. You made the rest up yourself?

7 A. I made the rest of it saying it was in a car. I didn't
8 know what kind of car it was.

9 Q. If you heard --

10 A. Can I answer this? If you hear on the tape that I
11 didn't know, I explained to them I didn't know what kind of
12 car it was. It wasn't Taurus, Taurus didn't come out of my
13 mouth.

14 Q. You were questioned by Ms. Harris earlier where she had
15 indicated that you testified earlier that you had heard
16 from the neighborhood that a white car was the getaway car?

17 A. It was something I added in there.

18 Q. Oh, something that you added in there. So, your prior
19 testimony about what you had heard from the neighborhood
20 was false?

21 A. About who did the killing was true.

22 Q. Sir, just answer my question. The prior testimony that
23 you had given that Ms. Harris read to you that you had
24 heard about the white car being the getaway car from the
25 rumors in the neighborhood was false?

1 MS. SCAPICCHIO: Objection. I don't
2 understand.

3 THE COURT: I don't understand the question
4 either. Objection is sustained.

5 Q. Let me rephrase it. Do you recall Ms. Harris asking
6 you a question about the white car?

7 A. Yes.

8 Q. And do you recall her showing you prior testimony that
9 you had given earlier in this case that you had testified
10 that you had heard that the getaway car that the killers of
11 Tiffany Moore or the Tiffany Moore killing, the getaway car
12 was a white car?

13 A. No. No.

14 Q. You don't recall Ms. Harris asking you those
15 questions?

16 A. No.

17 Q. Just 45 minutes to an hour ago?

18 A. She could have.

19 Q. She could have?

20 A. Yes.

21 Q. But you don't recall it now?

22 A. No, I don't.

23 Q. Okay. When we're going through that taped statement in
24 August of 1989, you had already spoken to an assistant
25 district attorney who was prosecuting the case against

1 Shawn Drumgold, hadn't you?

2 A. I don't recall.

3 Q. Well, sir, you recall testifying at the criminal trial
4 that you visited with the district attorney in June of
5 '89?

6 A. June of '89, no.

7 Q. Is your answer you didn't testify to that or you did
8 not visit the district attorney?

9 A. I don't remember it. I'm not saying I didn't, I'm not
10 saying I don't, I don't remember it.

11 Q. You don't remember even though the testimony was shown,
12 your trial testimony, that you visited with the district
13 attorney in June of '89?

14 A. Like I said to her, evidently I must have said it, but
15 I don't remember it.

16 Q. I see. Okay. So, getting back to the taped statement
17 of August of '89, did Detective Callahan tell you to say
18 that Shawn Drumgold and Terrance Taylor came back and that
19 you asked them about the guns and they told you or Lug
20 Taylor told you that they were hot?

21 A. They wouldn't say directly anything to me, they would
22 talk amongst themselves, and as they spoke, I picked up.

23 Q. Did Detective Callahan say anything in your presence
24 that Lug Taylor and Shawn Drumgold came back to 118 Elm
25 Hill Ave. after the shooting of Tiffany Moore?

1 A. I don't recall.

2 Q. And said that they said the guns were hot?

3 A. I don't recall that.

4 Q. Did Detective Callahan in your presence say anything
5 about Taylor, Lug Taylor and Shawn Drumgold hiding the guns
6 up at the Franklin Hill projects?

7 A. This is over 20 something years ago. It's hard to
8 remember all this.

9 Q. Okay. And did Detective Callahan in your presence say
10 anything about you, Willie, Shawn and Lug drinking beer at
11 118 Elm Hill Ave.?

12 A. No.

13 Q. Did Detective Callahan say anything about your saying
14 that Willie Evans went to a package store to buy a case of
15 beer?

16 A. No, I said that myself.

17 Q. Did Detective Callahan ever tell you to say that at 118
18 Elm Hill Ave. that Lug Taylor and Shawn Drumgold after the
19 shooting of Tiffany Moore appeared to be nervous?

20 A. He wouldn't say it directly to me, he never said
21 anything directly to me, he would come to the hotel and
22 they would talk amongst themselves, and what they said, you
23 know, I would pick up, and I combined both of them
24 together. You know, I wasn't about to lose what I had
25 either. I trusted the man, you know.

1 Q. I see. And did Detective Callahan ever tell
2 you -- strike that. Detective Callahan did not tell you to
3 testify at the case of Commonwealth vs. Shawn Drumgold, did
4 he?

5 A. I don't remember.

6 Q. He never said to you, now, listen, Ricky, I'm going to
7 give you some information and I want you to tell a jury in
8 a capital case to lie?

9 A. I was staying at the hotel. I was getting what I
10 wanted.

11 Q. Sure. Would you please answer the question. Did he
12 ever tell you --

13 A. I don't recall.

14 Q. You don't recall?

15 A. I don't believe so.

16 Q. You don't believe he did?

17 A. No, I don't believe so.

18 Q. He never told you to take the stand and to tell a
19 lie?

20 A. He would talk, they would discuss amongst me --

21 Q. Did he tell you to take the stand --

22 A. I don't recall.

23 Q. -- in a homicide case and lie?

24 A. I don't recall.

25 Q. Now, you testified that after you were shown six

1 photographs, there were six photographs that you were shown
2 by Detective Callahan involving the crime of the murder of
3 Tiffany Moore, correct?

4 A. Correct. It could have been six, correct.

5 Q. Right. Not the three that Ms. Scapicchio was talking
6 about?

7 A. It was about six.

8 Q. There were six photos?

9 A. About six. There was about six.

10 Q. And do you recall testifying at an earlier hearing that
11 you picked out Shawn Drumgold and Terrance Taylor?

12 A. Yes. Can I rephrase that? I didn't pick out
13 Shawn Drumgold and Terrance Taylor, I said to Mr. Callahan,
14 this is the person here that everybody is saying that did
15 the shooting, which is Apple, a/k/a Theron Davis, and
16 Mr. Callahan, he kept pointing at Shawn's picture.

17 Q. So, Mr. Evans, you want this jury to believe that even
18 though you had no information, in fact, you were
19 contradicting Detective Callahan about your knowledge as to
20 who shot Tiffany Moore, you want this jury to believe that
21 Detective Callahan decided to take you to the

22 Howard Johnson's and to feed you information about a case
23 you knew nothing about?

24 A. Yes.

25 Q. You want this jury to believe that?

1 A. Yes.

2 Q. And you are willing to go along with that?

3 A. That's the truth.

4 Q. Is that correct, sir?

5 A. Yes.

6 Q. So, out of the blue, without having any information
7 about the killing of Tiffany Moore, you were taken to the
8 Howard Johnson's hotel?

9 A. I don't recall that. I don't recall it.

10 Q. You don't recall it?

11 A. No.

12 Q. Now, you lived in the Grove Hall area for many years,
13 correct?

14 A. Correct.

15 Q. And you knew that there were quite a few shootings
16 going on at that time, correct?

17 A. Correct.

18 Q. And there were quite a few murders that were occurring
19 at that time?

20 A. Correct.

21 Q. Did Detective Callahan ask you about your knowledge
22 about any other murders?

23 A. No.

24 Q. And that's because, sir, you told him that you knew
25 something about the Tiffany Moore murder; isn't that

1 correct?

2 MS. SCAPICCHIO: Objection.

3 THE COURT: Overruled.

4 A. How am I going to say something about the murder, I
5 ain't know nothing about it.

6 Q. Well, Detective Callahan didn't ask you about any other
7 murders that were being committed in the Grove Hall area
8 apart from Willie Evans and Tiffany Moore?

9 A. I didn't know Detective Callahan.

10 Q. You knew him to become friendly with him?

11 A. That's what I thought.

12 Q. And he didn't ask you about any other murders?

13 A. No.

14 Q. About your knowledge about any other murders?

15 A. No.

16 Q. And you knew at that time, sir, that Detective Callahan
17 was a sergeant in charge of a homicide team?

18 A. I didn't know his rank. All I knew, he was a cop; he
19 was a cop and I was a street person.

20 Q. You were a what?

21 THE COURT: Street person.

22 Q. He was a cop, oh, a street person?

23 A. Yes. You couldn't get that back then.

24 THE COURT: Mr. Roache, how much more do you
25 have?

1 MR. ROACHE: Another 20 minutes or so.

2 THE COURT: We'll stop at this point. We'll see
3 you all at 9:00 tomorrow morning. All rise for the jury.
4 Leave your notebooks on your chair. Don't read anything
5 about the case. Don't do any research. I'll say this
6 every time until I'm boring. I think I'm already boring,
7 so we'll see you tomorrow morning.

8 (Jurors exited the courtroom.)

9 MS. SCAPICCHIO: Your Honor, may we be heard very
10 briefly?

11 THE COURT: Yes, you can all be excused. Is
12 there any reason why this can't be on the record?

13 MS. SCAPICCHIO: Not at all. I have a concern
14 with respect to Attorney Bob George's testimony. I don't
15 know how much longer the defendants are going to be with
16 Mr. Evans. Mr. George informed me or at least his office
17 did that he's starting a homicide case before Judge Giles
18 scheduled to impanel on Thursday, and the office tells me
19 they're doing motions in limine on Wednesday. The only day
20 that Mr. George would be able to testify is tomorrow. Is
21 there a possibility that we could take him out of order so
22 that if we don't finish by tomorrow we don't lose him for
23 the three weeks he's going to be on trial?

24 THE COURT: How long will his testimony will be?

25 MS. SCAPICCHIO: My direct is no more than 25

1 minutes.

2 THE COURT: Is there an objection to taking him
3 out of order?

4 MS. HARRIS: We have no objection.

5 MR. CURRAN: Absolutely not, your Honor. I just
6 can't gauge how long I'm going to be. I've had phone calls
7 into him. He hasn't returned my call. I can't give the
8 Court a gauge. I've asked counsel. I don't know what
9 you're going to ask.

10 THE COURT: Why don't you start him at.
11 9:00. Can he be here at 9:00?

12 MS. SCAPICCHIO: He can be here.

13 THE COURT: Your situation, as I understand it,
14 we've now arranged with the Court of Appeals for you to
15 argue at the end of the morning. That is likely to be
16 12:30. There is a possibility that if every other case
17 folds and they get to you earlier, we'll get an emergency
18 call, and I promised them that I would allow you to go up
19 and do the argument. Okay.

20 MS. SCAPICCHIO: Thank you, your Honor.

21 THE COURT: It's either thank me or not thank me,
22 and I have another naturalization. I'm the emergency
23 Judge. This one is in Lawrence, and I will have to leave
24 at 12:30 tomorrow.

25 THE CLERK: Yes.

1 THE COURT: We'll make it 12:30. The marshals
2 will drive fast. We'll see if we can push it off so I can
3 stay until one. What I wanted to do is dovetail your
4 leaving with my leaving.

5 MS. SCAPICCHIO: Yes, your Honor. I anticipate,
6 I will have Bob George here tomorrow morning. I will also
7 have Attorney Rappaport on call. He also has a matter that
8 is starting either Thursday or Friday up in Lowell, and
9 he's trying to gauge how long this matter is going to take.
10 Last time he was on the stand for three days. I don't know
11 that he'll be that long this time around. He would be the
12 witness that would follow Mr. George.

13 THE COURT: Okay.

14 MS. HARRIS: Actually this is my issue now
15 dovetails into that. I was going over the transcript, and
16 the opening argument of Ms. Scapicchio said that she
17 expects, "The defense attorneys to say their whole theory
18 of the case would have switched to a case of mistaken
19 identity to police misconduct. How do you trust the
20 investigation when an officer is feeding a witness details
21 of the crime? I expected that the defense attorneys will
22 tell you how their strategy would have changed if they had
23 known it's not as simple as taking Ricky Evans out of the
24 picture."

25 I can file something with the Court, but my

1 concern is that if both Mr. George and Mr. Rappaport
2 testified to that effect, it would start raising questions
3 about the quality of the information that they were
4 receiving or the integrity of the investigation that they
5 would have done strategically different things with
6 witnesses above and beyond Ricky Evans, that it puts into
7 play the information that was collected and was distributed
8 by Sergeant Callahan.

9 THE COURT: In other words, this is your point,
10 if it gets into, that you wanted to then show all the
11 exculpatory information and that in fact was turned over?

12 MS. HARRIS: Yes, your Honor.

13 THE COURT: This would open that up?

14 MS. HARRIS: That's my intention.

15 MS. SCAPICCHIO: I don't have any intention with
16 getting into the investigation. What I would be getting
17 into with both Mr. George and Mr. Rappaport, how they would
18 have cross-examined differently at trial had they been
19 given the information regarding Detective Callahan's
20 interaction with Ricky Evans.

21 THE COURT: The only witness they would be
22 talking about is Evans. Why would their cross-examination
23 of Peaks or Alexander be any different if they had the
24 information on Evans you claim they should have had?

25 MS. SCAPICCHIO: Because I believe they would

1 have asked either Alexander or Tracie Peaks what their
2 contact with Detective Callahan was and no more than
3 that.

4 THE COURT: Why would they go into that?

5 MS. SCAPICCHIO: Because if the theory of -- if
6 they found out prior to trying Commonwealth vs.
7 Shawn Drumgold that Detective Callahan fed information to a
8 witness, to allow him to testify falsely at trial, I would
9 assume that if they were cross-examining other witnesses
10 who had given damaging evidence regarding Shawn Drumgold
11 that they would ask about their contact with Detective
12 Callahan.

13 THE COURT: So you're going to open up
14 Tracie Peaks and Mary Alexander?

15 MS. SCAPICCHIO: I don't think that opens it, but
16 I'm not asking what was given over, what wasn't given over,
17 I'm asking whether or not they would have learned that
18 information, would they have asked questions regarding how
19 much contact they had with Detective Callahan. I thought
20 your pretrial ruling was that we could get into Detective
21 Callahan's contact with other witnesses. That's what I
22 thought you had ruled. To the extent that these witnesses
23 had contact with Callahan, that's what I would expect both
24 Mr. George and Mr. Rappaport to testify to.

25 THE COURT: Once again, it's your case to try,

1 but if the issue here was this evidence material,
2 information promised, rewards, inducements given to a major
3 witness in a murder trial, was this evidence material, it
4 is not clear to me that the witness, that these witnesses
5 have to say, oh, it would have fundamentally changed my
6 strategy in the following nine thousand ways. There's no
7 question that it was material and should have been turned
8 over if it were true.

9 There's no question that it's material, so the
10 question is by asking, by asking questions about how it
11 would have affected their -- they would have at least, I
12 mean is what you're saying they would have at least
13 investigated contacts that Callahan had with other
14 witnesses?

15 MS. SCAPICCHIO: They would have asked about
16 contacts Callahan had with other witnesses.

17 THE COURT: You understand that unless the jury
18 believes that those questions would have borne fruit, in
19 other words, those questions would have revealed
20 information with other witnesses, first of all, I don't see
21 how it helps you, and, second of all, I don't see how it
22 then doesn't open up what they're saying it would open up.
23 In other words --

24 MS. SCAPICCHIO: Because I expect that they're
25 going to argue with at least these witnesses, with Steve

1 Rappaport, that he was the proximate cause of Shawn's
2 conviction.

3 THE COURT: Right.

4 MS. SCAPICCHIO: It had nothing at all to do with
5 Mr. Evans, that's what they argued last time that it was
6 actually Steve Rappaport's fault.

7 THE COURT: You remember last time I changed my
8 instruction with respect to causation because it certainly
9 doesn't have to be the case that the issues with respect to
10 Ricky Evans were the sole cause.

11 MS. SCAPICCHIO: Right.

12 THE COURT: Or even the sole cause of
13 Mr. Drumgold's conviction, even if he would have been
14 convicted based on the other evidence, if this contributed
15 to it, it was sufficient based on my original instruction
16 as a contributing cause, so the question is whether you
17 have to go that far.

18 MS. SCAPICCHIO: I understand, your Honor.

19 THE COURT: And, I mean, so that if they say we
20 would have investigated other witnesses, that's very
21 interesting, only it doesn't get you very far unless that
22 investigation would have borne fruit, i.e., Detective
23 Callahan manipulated other witnesses.

24 MS. SCAPICCHIO: I understand that, your Honor.

25 THE COURT: But that --

1 MS. SCAPICCHIO: Opens the door?

2 THE COURT: That's exactly what the jury rejected
3 the last time.

4 MS. SCAPICCHIO: I understand.

5 THE COURT: So the question you have to decide is
6 whether or not you need to go that far. How also will you
7 address -- we're still under the rules from the first trial
8 about letting the jury know that this was a conviction that
9 had been set aside, the fact that it had been set aside,
10 the date that it had been set aside but not the rulings.

11 MS. SCAPICCHIO: There's a stipulation, I
12 believe.

13 MR. REILLY: We have a stipulation that we should
14 have had this morning. We'll have it first thing tomorrow
15 morning. I didn't get done together. It's very similar to
16 the stipulation in the last trial.

17 THE COURT: I think the answer is it depends
18 where it goes, but I think you have to think this through
19 about what you want to open up. Okay. We'll see you
20 tomorrow morning.

21 THE CLERK: All rise.

22 (Whereupon, the hearing was suspended at
23 1:12 p.m.)
24
25

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS)
CITY OF BOSTON)

I, Valerie A. O'Hara, Registered Professional
Reporter, do hereby certify that the foregoing transcript
was recorded by me stenographically at the time and place
aforesaid in No. 04-11193-NG, in re: Shawn Drumgold vs.
Timothy Callahan and thereafter by me reduced to
typewriting and is a true and accurate record of the
proceedings.

/S/ VALERIE A. O'HARA

VALERIE A. O'HARA

REGISTERED PROFESSIONAL REPORTER

DATED SEPTEMBER 14, 2009